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1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters  $\alpha$  and  $\beta$ . It is shown that the system of equations (1) has a solution for arbitrary values of the parameters  $\alpha$  and  $\beta$  if and only if the condition

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**LAWS, MEMORIALS AND RESOLUTIONS**

**OF THE**

**TERRITORY OF MONTANA,**

**PASSED AT THE**

**FIFTH SESSION**

**OF THE**

**LEGISLATIVE ASSEMBLY,**

**BEGUN AT VIRGINIA CITY DECEMBER 7, 1868, AND CONCLUDED  
JANUARY 15, 1869.**

**TO WHICH ARE PREFIXED**

**THE CONSTITUTION OF THE UNITED STATES**

**AND THE ACTS ORGANIZING THE TERRITORY.**

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**PUBLISHED BY AUTHORITY.**

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**HELENA, MONTANA TERRITORY:**  
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**1869.**

## AUTHENTICATION.

---

MONTANA TERRITORY, }  
*Secretary's Office, Virginia City.* }

I, JAMES TUFTS, Secretary of Montana Territory, do hereby certify that I have delivered to George M. Pinney, Public Printer, true and correct copies of all Laws, Joint Resolutions and Memorials, now on file in my office, and passed at the fifth session of the Legislative Assembly of the Territory of Montana, begun and held at Virginia City, the Capital of said Territory, on the 7th day of December, in the year of our Lord one thousand eight hundred and sixty-eight.

In Testimony Whereof, I have hereunto set my hand and affixed the great seal of the Territory of Montana. Done at Virginia City, this 26th day [L. S.] of January, in the year of our Lord one thousand eight hundred and sixty-nine.

JAMES TUFTS,  
*Secretary of Montana Territory.*

---

MONTANA POST OFFICE, Montana Territory,  
*January 26, 1869.*

I hereby certify, that the General and Private Laws, Memorials and Joint Resolutions herein contained, are true and correct copies of those delivered to me by the Secretary, as stated in the preceding authentication.

GEORGE M. PINNEY,  
*Public Printer.*

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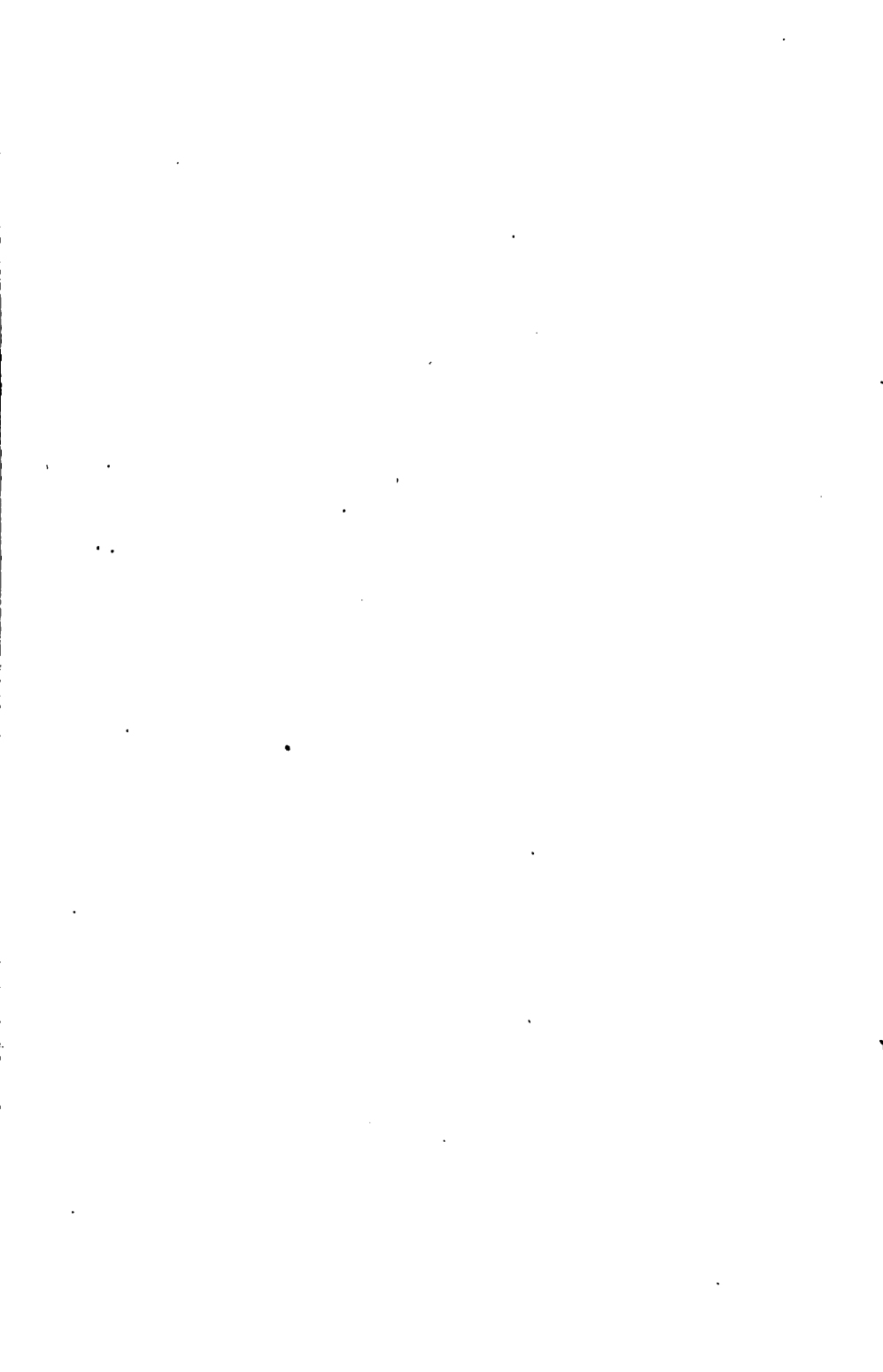


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# DECLARATION OF INDEPENDENCE,

IN CONGRESS, JULY 4TH, 1776.

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*The Unanimous Declaration of the Thirteen United States of America.*

---

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires, that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature — a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation —

For quartering large bodies of armed troops among us:

For protecting them by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us, without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas, to be tried for pretended offenses:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments :

For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms : our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too, have been deaf to the voice of justice, and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these

colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

## JOHN HANCOCK.

*New Hampshire.*

JOSIAH BARTLETT.  
WILLIAM WHIPPLE.  
MATTHEW THORNTON.

*Massachusetts Bay.*

SAMUEL ADAMS.  
JOHN ADAMS.  
ROBERT TREAT PAINE.  
ELBRIDGE GERRY.

*Rhode Island, &c.*

STEPHEN HOPKINS.  
WILLIAM ELLERY.

*Connecticut.*

ROGER SHERMAN.  
SAMUEL HUNTINGTON.  
WILLIAM WILLIAMS.  
OLIVER WOLCOTT.

*New York.*

WILLIAM FLOYD.  
PHILIP LIVINGSTON.  
FRANCIS LEWIS.  
LEWIS MORRIS.

*New Jersey.*

RICHARD STOCKTON.  
JOHN WITHERSPOON.  
FRANCIS HOPKINSON.  
JOHN HEART.  
ABRAHAM CLARK.

*Maryland.*

SAMUEL CHASE.  
WILLIAM PACA.  
THOMAS STONE.  
CHARLES CARROLL, of Carrollton.

*Pennsylvania.*

ROBERT MORRIS.  
BENJAMIN RUSH.  
BENJAMIN FRANKLIN.  
JOHN MORTON.  
GEORGE CLYMER.  
JAMES SMITH.  
GEORGE TAYLOR.  
JAMES WILSON.  
GEORGE ROSS.

*Delaware.*

CÆSAR RODNEY.  
GEORGE READ.  
THOMAS M'KEAN.

*Virginia.*

GEORGE WYTHE.  
RICHARD HENRY LEE.  
THOMAS JEFFERSON.  
BENJAMIN HARRISON.  
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FRANCIS LIGHTFOOT LEE.  
CARTER BRAXTON.

*North Carolina.*

WILLIAM HOOPER.  
JOSEPH HEWES.  
JOHN PENN.

*South Carolina.*

EDWARD RUTLEDGE.  
THOMAS HAYWARD, JR.  
THOMAS LYNCH, JR.  
ARTHUR MIDDLETON.

*Georgia.*

BUTTON GWINNETT.  
LYMAN HALL.  
GEORGE WALTON.

# CONSTITUTION OF THE UNITED STATES OF AMERICA.

---

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative;



and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 8. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections

for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

**Sec. 5.** Each house shall be the judge of elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

**Sec. 6.** The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

**Sec. 7.** All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in

which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasion ;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another ; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law ; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States ; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[\* The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this

purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear, (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

SEC. 2. The president shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public

ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers, and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more states;—[\*between a state and citizens of another state;—] between citizens of different states;—between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme

court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

#### ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.



SEC. 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive, (when the legislature cannot be convened) against domestic violence.

#### ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

#### ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

# AMENDMENTS

## TO THE

### CONSTITUTION OF THE UNITED STATES.

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#### ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

#### ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

#### ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

#### ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the

militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

#### ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

#### ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; — the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president. The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

## ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

# ORGANIC ACT

OF THE

## TERRITORY OF MONTANA.

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(PUBLIC, No. 76.)

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AN ACT to provide a temporary government for the Territory of Montana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That all that part of the territory of the United States included within the limits, to wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington, with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longi-

tude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said territory, and reprieve for offenses against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each

session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation or absence of the governor from the territory, the secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties for which they may be elected respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said

representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted)



after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the

title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive, in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

SEC. 10. *And be it further enacted,* That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the duties,

be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice, and associate justices, attorney and marshal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars;

the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually traveled routes; and an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due

notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the time, and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Montana territory as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted with them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

SEC. 17. *And be it further enacted*, That all treaties, laws and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencioes of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

SEC. 18. *And be it further enacted*, That, until Congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky mountains; thence northward along the said crest of the Rocky mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,  
Washington, May 28, 1864. }

A true copy :

W. H. HUNTER,  
Chief Clerk.

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(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved May 26, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the legislative assemblies of the several territories of the United States shall not, after

the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits.

SEC. 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided,* That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes: *And provided further,* That in all cases an appeal may be taken from any order, judgment or decree of said probate court to the district court.

SEC. 3. *And be it further enacted,* That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

SEC. 4. *And be it further enacted,* That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or subdivisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

SEC. 5. *And be it further enacted,* That for the purpose of reviving the legislative functions of the territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof, begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly, so elected, shall convene at the time prescribed by said legislative assembly at the

session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as will enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

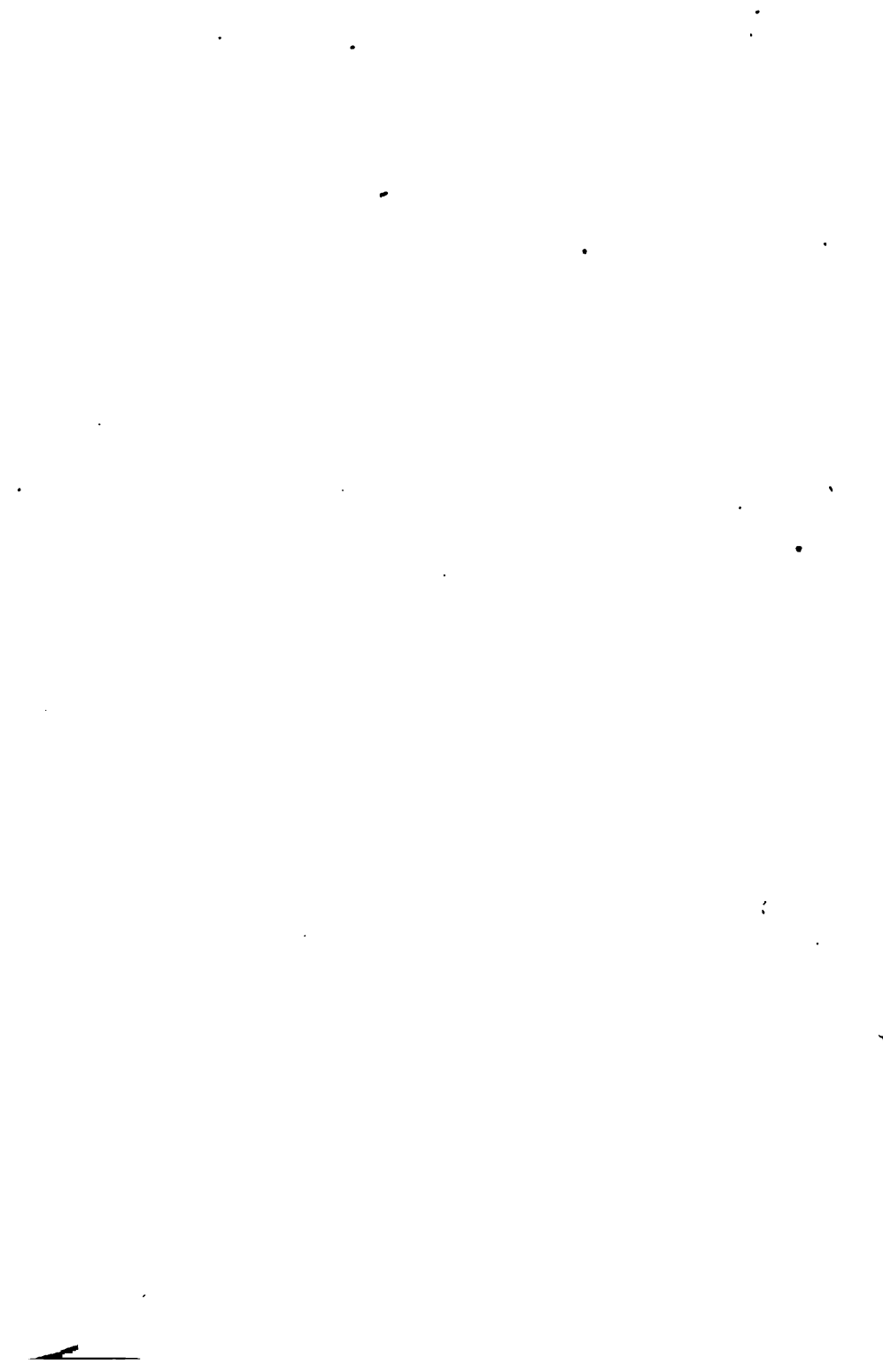
SEC. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory: *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

SEC. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.





# L A W S O F M O N T A N A .

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AN ACT providing for the collection of Revenue.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. There shall be levied annually by the board of county commissioners of each county in this territory, and collected by the county treasurer of such counties, an ad valorem tax on each dollar of assessed valuation on all property in this territory, subject to taxation for territorial purposes; on each dollar, four mills, for county purposes; on each dollar, any sum not exceeding ten mills, and for school purposes, not less than one, nor more than three mills; and for the benefit of the poor, not less than one, nor more than five mills; and such levy, when made, shall be entered on the books of said county commissioners.

SEC. 2. Every tax levied under the provisions of this act, is hereby made a lien against any and all of the property assessed, and such lien shall attach at the time of such assessment, and shall not be satisfied or removed until such taxes are paid.

SEC. 3. All property of every kind and nature in this territory, on the first day of January of each year, or which shall arrive in this territory before the last day of December ensuing, shall be subject to taxation, except—

*First.* All lands and lots of ground, with buildings, improvements and structures thereon belonging to the territory, and all lands and property belonging to the United States, or to this territory, or any municipal corporation, or to any county of the territory.

*Second.* Court houses, jails, town halls, houses occupied by fire and military companies, and their apparatus, and other public

structures, and offices, and all squares and lots kept open for health or public uses or for ornament, belonging to any county, city, town or village in this territory, public libraries, colleges, school houses, and other buildings for the purposes of education, with their furniture, libraries, and all other equipments and lots or land thereto appurtenant and used therewith, so long as the same shall be used for that purpose: *Provided*, That when any of the property mentioned in this subdivision is private property, from which a rent or other valuable consideration is received for its uses, the same shall be taxed as other property.

*Third.* Public asylums, hospitals, poor houses, and other charitable or benevolent institutions for the relief of the indigent or afflicted, and the lots or lands thereto appurtenant, with all their furniture and equipments, all ground and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

*Fourth.* Churches, chapels, and equipments, and the lots of ground appurtenant thereto and therewith, provided rent is not paid for such ground, so long as the same is used for that purpose only, without yielding rent.

*Fifth.* The buildings and lots of ground appurtenant thereto, and used therewith, owned and used by the order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by any benevolent or charitable society.

*Sixth.* Cemeteries and graveyards, set apart and used for interring the dead.

*Seventh.* The property of widows or orphan children, not to exceed the amount of one thousand dollars to any one family.

*Eighth.* Growing crops.

*Ninth.* Mines and mining claims: *Provided*, That all machinery used in mining claims, and all property and improvements appurtenant to or upon mining claims, which have an independent and separate value, shall be subject to taxation. Tools of mechanics, farming, tools of husbandmen, libraries of professional men, and private citizens, household furniture of families or householders, which do not exceed in value, to each of said callings or occupations, the sum of two hundred and fifty dollars.

SEC. 4. All other property, real or personal, within the territory, is subject to taxation in the manner herein directed, and this

is intended to embrace improvements on land and lots in towns, including land bought from the United States, and from this territory, whether bought on a credit or otherwise, being franchises, which for the purposes of this chapter, are to be considered real property, ditches and flumes, horses, oxen, cows and calves, mules and asses, sheep, swine and goats, money in coin or gold dust, whether in possession or on deposit, and including bank bills, property or labor due from solvent debtors on contract or on judgment, whether in this territory or not, mortgages and other like securities, stock or shares in any bank or company, incorporated or otherwise, and whether incorporated by this or any other territory or state, or whether situated in this territory or not, public stock or lands, household furniture, not otherwise exempt, including gold and silver plate, musical instruments, watches and jewelry, private libraries, those over two hundred and fifty dollars in value, pleasure carriages, stages, hacks, and other vehicles for transporting passengers, wagons, carts, drays, sleds and other descriptions of vehicles or carriages; boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of this territory or not, if owned, either in whole or in part, by persons who are inhabitants of this territory; annuities, but not including pensions from the United States, or any of the states.

SEC. 5. Every inhabitant of this territory, of full age and sound mind, shall list all property subject to taxation in this territory of which he is the owner, or has the control or management, in the manner hereinafter directed; but the property of a minor is to be listed by his guardian, or, if he have no guardian, then by his father, if living, if not, then by his mother, if living, if not, then by the person having the property in charge; if a married woman, by her husband, but if he be unable or refuse, then by herself; of a beneficiary for whom property is held in trust, by the trustee; and if the personal property of a decedent, by the executor; of a body corporate, company, society, or partnership, by its principal accounting officer, agent, or a partner. Property under mortgage or lease is to be listed by and taxed to the mortgagee or lessee, unless it be listed by the mortgagor or lessor, and, in all cases, said property shall be listed in the name of the owner.

SEC. 6. Commission merchants, and all persons trading and dealing on commission, and consignees authorized to sell, are, for the purposes of taxation, to be deemed owners of the property in their possession.

SEC. 7. All personal property shall be listed, assessed and taxed in the county where the same may be found, unless the owner thereof produces a receipt, showing that he has paid tax on the same in some other county for the same year.

SEC. 8. All persons required to list property in behalf of another, shall list in the same county in which he would be required, if it were his own, except as herein otherwise directed, but he must list it separately from his own, naming the person or estate to whom or to which it belongs, but the undivided property of a person deceased belonging to his heirs, with or without naming the several heirs.

SEC. 9. The property of corporations or companies constructing bridges, canals, ditches, flumes, railways, plank roads, grading roads, turnpiking roads, telegraph lines, and similar improvements, shall be assessed to each corporation or company, and their interests are to be taxed in this territory, in the county or localities in which such bridges, canals, flumes, railways, plank roads, grading roads, turnpike roads, telegraph lines, and similar improvements may be in, and to the extent of such improvements as may be found to be in the county or counties in which the same may be situated, and to this end the assessor is directed to require the secretary or [to] clerk, or whatever officer of corresponding duties there may be, to render, under oath, a list of the number of miles and value of such improvements as may be, in each separate county through which the same may be constructed, or in which the same may be situated.

SEC. 10. All taxable property is to be listed and valued each year, and shall be assessed at its true value in money at private sale, having regard to its quality, locality, natural advantages, the general improvement in the vicinity, and all other elements of its value.

SEC. 11. Depreciated bank notes or stock, or shares in corporations or companies, may be listed at their current value. Credits shall be listed at such sum as the person listing them believes he will receive or can collect, and annuities at such sum as the person listing believes them to be worth in money.

SEC. 12. The term credit, includes every claim or demand for money, labor, or other valuable thing, and every annuity or sum of money receivable at stated periods, and all money in property of any kind, except pensions from the United States or any of the states.

#### THE DUTIES OF ASSESSOR.

SEC. 13. The assessor of each county shall assess and value all property required by this act to be assessed and valued, and between the first day of March and the tenth day of July, in each year, shall demand of each tax payer in his county, a list, as hereinafter provided, of his, her or their property; and if the said list be not rendered under oath at the time such demand be made, the assessor shall proceed to list and assess the property of such tax payer according to his best knowledge and information, and shall add twenty-five per cent. to the value thereof: *Provided*, That upon all personal property, when the owner has not sufficient real property which is not exempt from taxation to pay the taxes which would be levied against the personal property of such owner, the assessor shall report his assessment forthwith to the treasurer of the county, and if there be danger that any of such property will be removed from the county, the assessor shall have power, and it shall be his duty to seize a sufficient amount of property to pay the taxes and cost; he shall forthwith report such seizure to the treasurer of the county, who shall hold the property seized, until such taxes are paid. It shall be the duty of the county treasurer, immediately on the receipt of the assessment against any personal property mentioned in this section, to levy the tax therein, and if the tax levied be not paid within ten days from the time the assessment was made, he shall proceed to sell the property seized by the assessor, and shall seize and sell other personal property on which taxes have been levied by the provisions of this section, and shall sell the same in the manner provided for the sale of personal property for taxes.

SEC. 14. It shall be the duty of the assessor to proceed to assess all property that may come into his county, or which he may have failed to assess at any time during the year, after he shall have received from the commissioners the blanks as required in section twenty of this act.

SEC. 15. The list shall contain: First. His, her, or their lands, to be designated by township, range, section, and any division or part of section; and where such part is not a government division or subdivision, then some other description to identify it; and his town lots, naming the town in which they are situated, and their proper description by number and blocks or otherwise, according to the system of numbering in the town. Second. His personal property employed in merchandise, amount of capital employed in manufactures, number of horses, number of mules and asses, number of sheep, number of oxen, number of cows and calves, number of swine, number of goats, number of carriages of every description, amount of money and credits, number of clocks and watches, number of pieces of jewelry and gold and silver plate, number and kind of musical instruments, amount of taxable household furniture, amount in stocks or shares in any corporation or company, and amount of all other property not enumerated.

SEC. 16. The list shall be signed and sworn to by the persons making it, and the oath shall be administered either by the assessor or his deputy, or by any other officer authorized to administer oaths, and shall be certified by him, and the oath may be printed upon the blank forms, and shall be in substance as follows:

"TERRITORY OF MONTANA, }  
County of ———. } ss.

I, A. B., do solemnly swear that I have listed in the within list, all moneys, goods, credits, and all other description of property owned or held by me as principal, partner or agent, according to the best of my knowledge. So help me God.

(Signed)

A. B."

SEC. 17. On or before the tenth of July, annually, the assessor shall make out and deliver to the county clerk an assessment roll, containing, in a tabular form, and alphabetical order, the names of the persons and bodies in whose names property has been listed in his county, with the several species of property, and the value as hereinbefore indicated, with the column of numbers and value footed; and in a column to be provided for that purpose, he shall write the words, "by the assessor," when the list was made by himself, together with the words "absent or

sick," or the words "refused to list," or "refused to swear," or such other words as will express the cause why the person required to make the list did not make it, and neglect shall be taken as a refusal.

SEC. 18. The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attached to the assessment roll, which oath is to be in substance as follows:

"I, C. D., Assessor of —, of — county, do solemnly swear, that the value of all property, money and credits, of which a statement has been made, and verified by the oath of the person required to list the same, is herein truly returned as set forth in such statement; that in every case where I have been required to ascertain the amount or value of the property of any person or body, I have diligently, and by the best means in my power, endeavored to ascertain the true amount and value, and that, as I verily believe, the full value thereof is set forth in the annexed, and that in no case have I knowingly omitted to demand of any person of whom I was required by law to list, nor in any way connived at any violation or evasion of any of the requirements of the law in relation to the assessment of property for taxation. So help me God."

SEC. 19. Such assessor shall receive, from said county, a percentage of the assessed valuation returned by him, subject to such reduction as may be made by the board of equalization, of not less than three-fourths of one mill on the dollar, nor more than two mills on the dollar, as said board of county commissioners may deem right and just; and it shall be the duty of the board of commissioners to provide for the payment of such sum as may be allowed said assessor, in money out of the contingent fund of said county: *Provided*, That the county commissioners of Choteau county may, at their discretion, allow a sum not to exceed the sum of three mills.

#### DUTIES OF COUNTY COMMISSIONERS.

SEC. 20. On or before the first day of March in each year, the county commissioners shall provide the assessor with suitable blank forms for assessments and such instructions as to insure full and uniform assessments and returns.



SEC. 21. On the first Monday in February, the board of county commissioners shall levy the requisite taxes for the current year.

SEC. 22. The county commissioners shall constitute a board for the correction of the assessment roll, and on the third Monday in July, and at any time thereafter when it may become necessary, who shall meet at the county clerk's office, at the county seat, and sufficient public notice shall be given, by the county clerk, of the time and place of the meeting of such board of correction, and any person feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any supposed error, and if, in the opinion of said board, any assessments are too low, they shall have power to increase such assessments, but shall notify the party or parties of their intention to increase such assessment, and if any person, returned as refusing to render a list, or to be sworn thereto, can show good cause, the penalty herein provided may be remitted.

SEC. 23. In addition to the tax required to be levied by the provisions of this act, there shall be levied by the board of county commissioners of each county, at the same time the ad valorem tax is levied by them, a tax of two dollars upon each male inhabitant of this territory, over the age of twenty-one years. Such tax shall be denominated a poor tax, and it shall be the duty of the treasurer of each county to collect the same in money, and in the manner as provided for in this act for the collection of taxes, which said tax shall be set apart by the board of county commissioners as a fund, exclusively for the support and maintenance of the poor of each county; and the said treasurer shall be allowed twenty per cent. on all such moneys, in case he shall faithfully perform his duties in collecting said tax from each and every inhabitant as herein prescribed.

#### DUTIES OF COUNTY CLERKS.

SEC. 24. As soon as possible, after the taxes are levied, the clerk shall make out a tax list in tabular form and in alphabetical order, which tax list shall be made within twenty days after the returns of the assessor having [in] a distinct column by itself, the amount of each different tax, and having one or more columns for all delinquent taxes, but instead of a column for the amount

of personal property, the word "personalty" may be written across the column after the name and amount carried into the column of value. Such list may be in the following form:

Names of Owners.	Part of section.	Section.	Township.	Range.	Acres.	Name of Town.	Lots.	Block.	Value.	County Tax.	Territorial Tax.	School Tax.	Road Tax.

**SEC. 25.** An entry is required to be made upon the tax list showing what it is, and for what county, and the year it is, and the county clerk shall attach to the list his warrant under his hand and official seal, in general terms, requiring the treasurer to collect the tax therein levied, according to law, and no informality in the above requirements shall render any proceedings for the collection of taxes illegal, and such list shall be full and sufficient authority for the treasurer to collect all taxes contained therein.

**SEC. 26.** Immediately after the assessment roll is corrected, the county clerk shall make out an abstract thereof, containing the whole amount of each species of property, and the value of the same, together with the total valuation of all property assessed, which abstract said clerk shall transmit forthwith to the auditor of the territory.

**SEC. 27.** If on the assessment roll, or on the tax list, there be an error in the name of a person taxed, the name may be changed, and the tax collected from the person intended, if he be taxable, and can be identified by the treasurer or assessor.

#### DUTIES OF TREASURER.

**SEC. 28.** No demand of taxes shall be necessary except as provided in section thirty-one of this act, but it shall be the duty of every person owing tax, to pay the same to the treasurer of

the county, at the time and place fixed by the treasurer; and if any such tax payer shall fail or refuse to pay the tax assessed against him on or before the first day of November following the levy thereof, twenty per cent. of such tax shall be added thereto, and collected as a portion of such tax; and it shall be the duty of the collector, immediately after said first day of November, to seize any personal property belonging to, or which may have been assessed to any tax payer who shall then be delinquent, and sell the same as provided in section forty-eight of this act: *Provided*, That nothing herein shall be so construed as to prohibit the collector from seizing and selling personal property at any time before the first day of November, but it shall be his duty at any time when there shall appear to be danger of the removal of property on which taxes are unpaid, from the county, to seize and sell a sufficient amount of the same to satisfy the taxes thereon, together with the costs of seizure and sale.

SEC. 29. If any tax payer, against whom tax may be levied, shall remove his property from the county where such tax was levied, the treasurer of such county shall sue for and collect such tax in the name of the county, in the manner as provided for the collection of debts.

SEC. 30. In case where sufficient personal property, liable to seizure, cannot be found to pay the tax assessed against any person or company, the treasurer may sue for and collect such tax by attachment, garnishment or otherwise.

SEC. 31. The county treasurer shall, by printed or written handbills posted in each township in his county, notify the tax payers thereof, that he will be at some point in said township, not less than one nor more than three days, to receive the taxes due the county. Said county treasurer shall visit such township prior to the first day of October of each year.

SEC. 32. On or before the first Monday of January in each year, the treasurer is directed to offer at public sale, at the court house in his county, all lands on which the taxes levied the preceding or any previous year still remain unpaid, but such sale shall not be void if not made till after the day named.

SEC. 33. The treasurer shall give notice of the sale of real property by publication thereof, once a week, for four weeks, in a newspaper in his county, if there be one of weekly issue, the

first of which shall be, at least, four weeks before the sale, and by a written notice posted on the door of the court house, or building commonly used therefor, for four weeks before the sale; and if there be no such newspaper published in the county, the like notice shall be given by posting one written notice the above length of time, in some public place in each township or precinct in which any land to be sold is situated, and one on the court house door. Such notice shall contain a notification that all lands on which the taxes of the preceding year or years (naming it) have not been paid will be sold, and the time and place thereof, with a list of the lands. Ten per cent upon the amount of the taxes due shall be added when the lands are advertised.

SEC. 34. Such sale is directed to take place between the hours of nine o'clock in the forenoon, and five o'clock in the afternoon and be adjourned from day to day, Sundays excepted, until all the lands are sold.

SEC. 35. At the February session of the board of county commissioners, the treasurer is required to file in the county clerk's office, a return of his sale of lands, retaining a copy in his office, showing the land sold, the names of the owners so far as known, the names of the purchasers, and the sums paid by them, and also a copy of the notice of the sale, with a certificate of the service, verified by an affidavit, and such certificate shall be evidence.

SEC. 36. The person who offers to pay the amount due on any parcel of land, for the smallest portion of the same, is to be considered the highest bidder, and when such portion constitutes one-half or more of the parcel, it is to be taken from the east side thereof, dividing it by a line running north and south, except that town lots are to be divided in each case lengthwise, by a line parallel with the proper lines of lots; if the portion be less than one-half, the tract is to be taken from the south-east corner in a square form, as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: The homestead is liable to be sold for no tax, save that which is due on the same exclusively, and the above directions concerning the divisions of a tract of land shall be modified so as to meet this requirement, and to that end the quantity of land bid for may be obtained by drawing a divi-

sion in any direction or form, so as to avoid the homestead, and when the homestead constitutes a part of the tract sold, and is not yet ascertained, the court may, in the action hereafter authorized, at the suggestion of either party, cause a proceeding to be had, similar to that required to a mechanics' lien. For the ascertainment of the homestead, and in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and set it apart from the homestead.

SEC. 37. Should any person so bidding fail to pay the amount due, the treasurer may again offer the land for sale; if it has closed, he may again advertise it specifically, and by description, by one written notice posted for two weeks in the civil township in which the land lies, and one such notice on the court house, or the treasurer may recover the amount bid by civil action, brought in the name of the county, in the township or precinct where the county seat is situated.

SEC. 38. The county treasurer shall make out, sign and deliver to the purchaser of any real property sold for the payment of taxes as aforesaid, a certificate of purchase, describing the property on which the taxes and costs were paid by the purchaser, as the same was described in record of sales, and also how much and what part of each tract or lot was sold, and stating the amount of each kind of tax, interest and cost for each tract or lot for which the same was sold, as described in record of sales, and that payment has been made therefor. If any purchaser shall become the purchaser of more than one parcel of property, he may have the whole included in one certificate. For each certificate so delivered, the purchaser shall pay a fee of one dollar to the county treasurer.

SEC. 39. Such certificate of purchase shall be assignable by indorsement, and on assignment thereof, shall vest in the assignee or his legal representatives, all right and title of the original purchaser.

SEC. 40. Real property sold under the provisions of this act, may be redeemed at any time before the expiration of one year from the date of the sale, by the payment to the treasurer of the proper county, to be held by him subject to the order of the purchaser, of the amount for which the same was sold, and sixty per cent. interest per annum on such subsequent taxes, unless such

subsequent taxes have been paid by the person for whose benefit the redemption is made, which fact may be shown by the treasurer's receipt: *Provided*, That if real property of any minor, married woman, or lunatic, be sold for taxes, the same may be redeemed at any time within one year after such disability is removed, by the guardian or legal representatives.

SEC. 41. The county treasurer shall, upon application of any party to redeem any real property, sold under the provisions of this act, and being satisfied that such party has the right to redeem the same, and upon the payment of the proper amount, issue to such party a certificate of redemption, setting forth the facts of the sale, substantially, as contained in certificate of sale, the date of redemption, the amount paid, and by whom redeemed; and he shall make the proper entries in the book of sales in his office, and shall receive two dollars for such services.

SEC. 42. Immediately after the expiration of the time allowed for the redemption of any land sold for taxes under the provisions of this act, the treasurer then in office shall make out a deed for each lot or parcel of land, sold and remaining unredeemed, and deliver the same to the purchaser upon the return of the certificate of purchase. The county treasurer is required to demand five dollars for each deed made by him on such sale, but any number of parcels of land, bought by one person, may be included in one deed, as may be desired by the purchaser.

SEC. 43. Deeds executed by the treasurer shall be substantially in the following form:

"*Know all Men by these Presents*, That whereas the following described real property, to wit: (*here follows the description*) situated in the county of —, and territory of Montana, was subject to taxation for the years A.D. —; and whereas, the taxes assessed upon said real property for the year or years aforesaid, remained due and unpaid at the date of the sale hereinafter named; and whereas, the treasurer of said county did, on the — day of —, A. D. 18—, expose at public sale, at the court house, in the county aforesaid, in substantial conformity with all the requisitions of the statute in such case made and provided, the real property above described, for the payment of the taxes, interest and cost then due and remaining unpaid on said property; and whereas, at the time and

place aforesaid, A. B., of the county of —, and —, of —, having offered to pay the sum of — dollars and — cents, being the whole amount of taxes unpaid on said property (*here follows a description of the property sold*), which was the least quantity bid for, and payment of such sum having been made by him to the said treasurer, the said property was stricken off to him at that price; and whereas, the said A. B. did, on the — day of —, A.D. 18—, duly assign the certificate of the sale of the property, as aforesaid, and all his right, title and interest to said property, to E. F., of the county of —, and — of —; and whereas, the time of redemption having elapsed since the date of said sale, and the said property has not been redeemed therefrom as provided by law. Now, therefore, I, C. D., — of the county aforesaid, for and in consideration of the sum, to the — paid, as aforesaid, and by virtue of the statute in such case made and provided, have bargained and sold, and by these presents do grant, bargain and sell unto the said A. B., his heirs and assigns, the real property last herein described. To have and to hold unto him the said A. B., his heirs and assigns forever, subject, however, to all the rights of redemption provided by law.

"In Witness Whereof, I, C. D., — as aforesaid, by virtue of authority aforesaid, have hereunto subscribed my name, on this — day of —, A.D. 18—. C. D.

"TERRITORY OF MONTANA, }  
       — County. } ss.

I hereby certify, that before me, — in and for said county, personally appeared the above named C. D., — of said county, at the date of the execution of the above conveyance, and to me known to be the identical person whose name is affixed to, and who executed the above conveyance, as treasurer of said county, and acknowledged the execution of the same to be his voluntary act and deed as — of said county, for the purposes therein expressed.

"Given under my hand and seal, this — day of —, A.D. 18—."

SEC. 44. When by the mistake or the wrongful act of the county treasurer, land has been sold, the county is to hold the purchaser harmless by paying him the amount of principal and interest to which he would have been entitled had the land been

rightfully sold; and the treasurer and his sureties will be liable for the amount, to the county, on his bond, or the purchaser may recover directly from the treasurer.

SEC. 45. Each county treasurer shall, at the expiration of every three months, render an account of and cause to be paid over to the territorial treasurer, the amount of all moneys collected for territorial purposes, and shall complete the collection of all lists delivered to him, and at the expiration of each fiscal year, shall report in person, and make final settlement, and pay over to the territorial treasurer the balance of all moneys collected by him for territorial purposes, for which final report he shall be allowed mileage.

SEC. 46. If any county treasurer shall fail to collect or render his account, as provided in the foregoing section, it shall be the duty of the territorial treasurer, and he is hereby authorized and required, to commence proceedings for a forfeiture of his bond, and if such treasurer should fail or refuse to so prosecute them, any tax payer in the territory may commence such prosecution. That the first day of November, of each year, shall be the end of the fiscal year for county purposes, and the county treasurer shall, before retiring from office, settle in full with the county commissioners, and the territorial auditor and treasurer.

SEC. 47. The county treasurer of each county in this territory shall be, by virtue of his office, collector of taxes therein, and shall perform such other duties in that regard as are prescribed by law.

SEC. 48. The treasurer shall sell any and all personal property, or so much thereof as may be necessary, that may be seized by him for the non-payment of taxes, at public sale, conducted openly, and shall be sold after notice, published as required by law for the sale of personal property under execution. Such notice shall be given not less than five nor more than ten days.

SEC. 49. The act entitled "An Act for the collection of revenue," approved February 6, 1865, and all acts or parts of acts conflicting with this act, shall be and the same are hereby repealed.

SEC. 50. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.



## AN ACT concerning Licenses.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. There shall be levied and collected by the tax collector, a license tax as follows: *first*, from each billiard table kept for public use, sixteen dollars per quarter; *second*, from the manager or lessee of every theatre, five dollars per day, or thirty dollars per month, and for each exhibition of serenaders, opera or concert singers, minstrels, sleight-of-hand performances, legerdemain, and all other shows or exhibitions, the same as required for theatrical performances; *third*, all dance houses or hurdy-gurdy houses shall pay a license of five dollars per day, or fifty dollars per month; *fourth*, for each and every insurance company, agent or agencies transacting business in this territory, the sum of eighty dollars per year; *fifth*, each pawnbroker, twenty-five dollars per quarter; *sixth*, for each keeper of an intelligence office, ten dollars per quarter; *seventh*, from each assayer, fifteen dollars per quarter: *Provided*, They shall work for a compensation. Each professional man, before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum: *Provided*, That all persons who draw any legal instrument, deed, power of attorney or other documents, for which he charges a fee, shall be considered a professional man.

SEC. 2. All keepers of livery and feed stables shall pay a license of fifteen dollars per quarter; all keepers of hay yards, corrals for feeding stock, or selling hay, shall pay a license of eight dollars per quarter, and all herders who keep or herd stock for hire, shall pay a license of ten dollars per quarter; ranchmen, whose receipts for herding stock exceed twenty dollars per month, shall pay the same license as herders. All keepers of liverys, who keep buggies, carriages, sleighs, and other vehicles, shall pay a license of two dollars and fifty cents for each and every vehicle per quarter, in addition to the fifteen dollars above provided.

SEC. 3. Each person keeping a bakery or confectionery shall pay a license of five dollars per month: *Provided*, Their business does not exceed five hundred per month; but all whose business does exceed five hundred dollars per month, shall pay a license of ten dollars per month. All barbers shall pay a license

of fifteen dollars per quarter : *Provided*, That any barber or barbers who keep more than two barber chairs, shall pay a license of twenty-five dollars per quarter.

SEC. 4. Licenses shall be obtained by the persons, private associations, incorporations, or bankers, doing business in this territory, or engaged in any one or more of the following occupations, to wit: In buying or selling foreign or inland bills of exchange, or in loaning money at interest, or in buying notes, bonds, or other indebtedness of private persons or territorial or county or city stocks or indebtedness, or stocks of incorporated companies, or in buying or selling gold dust, or gold or silver bullion, or gold or silver coin, keepers of savings banks, or engaged as common carriers, in transmitting or carrying gold dust, or gold or silver coin or bullion, from one place to another, for hire or profit, or engaged in receiving general or special deposits of gold dust or silver coin or bullion, including all brokers, shall be divided into four classes as follows: *first*, those doing business in the aggregate to the amount of fifty thousand dollars per quarter, shall constitute the first class, and shall pay a license of one hundred dollars per quarter; all whose business is under fifty thousand dollars per quarter, shall pay a license of fifty dollars per quarter; said amount to be paid to the collector of taxes in the county in which the party applying therefor desires to or does transact any or all of the occupations specified in this section, and a separate license shall be obtained for each branch or separate house of business in the same county: *Provided*, That all persons buying gold dust, gold and silver bullion, gold and silver coin, shall procure a license as above mentioned for that specific business.

SEC. 5. Every person who has a fixed place of business, who may deal in goods, wares or merchandise, wines or liquors, drugs or medicines, jewelry or wares of precious metals, or who shall expose the same for sale, shall pay a license as follows: Those whose sales are ten thousand dollars or more per month, shall constitute the first class, and shall pay a license of fifty dollars per quarter; those whose sales are five thousand and under ten thousand per month shall constitute the second class, and shall pay a license of thirty dollars per quarter; those whose sales are two thousand and under five thousand dollars per month shall constitute the third class, and pay a license of twenty dollars per quar-

ter ; those whose sales are under two thousand dollars per month, shall constitute the fourth class, and pay a license of ten dollars per quarter: *Provided*, That the sales of liquors or wines licensed under this section, shall not be in less quantities than one gallon, unless the person or persons making such sales shall, in addition to the license provided for in this section, pay a license of ten dollars per quarter: *And provided further*, That no license shall be issued under the provisions of this act for less than three months.

SEC. 6. All auctioneers shall procure a license, and shall pay therefor the sum of twenty dollars per month, and all auctioneers who shall sell upon the streets of any town in this territory, horses, mules, cattle, or other live stock, shall pay a license of fifty dollars per month: *Provided*, No license shall be required for sale of goods on execution, or sheriff's sale under attachment or order of any court.

SEC. 7. All keepers of restaurants and boarding houses shall pay a license of fifteen dollars per quarter; all keepers of lodging houses shall pay a license of ten dollars per quarter; all keepers of hotels shall pay a license of twenty-five dollars per quarter: *Provided*, That any person carrying on the hotel business more than two miles from any city, town or village, or in any city, town or village containing less than one hundred inhabitants, shall pay a license tax of five dollars per quarter.

SEC. 8. All persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, shall, before the transacting of such business, obtain a license, for which he or they shall pay as follows: In any city, town or village that contains a population of three hundred persons or more, the license shall be thirty dollars per quarter; in any city, town or village where the population is less than three hundred, and more than fifty, the license shall be fifteen dollars per quarter; and all persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, outside of any town, city or village, and no nearer than three miles to any town, city or village, shall pay a license of eight dollars per quarter.

SEC. 9. Every traveling merchant, hawker or peddler who shall carry a pack or a trunk, and shall sell goods, wares or merchandise, shall pay a license of five dollars per month: *Provided*, That every peddler or hawker, traveling with a wagon or wagons,

pack animal or pack animals, not dealing in products of this territory, shall pay a license as follows: For the first wagon, fifteen dollars per month, and for every additional wagon, ten dollars per month; for the first pack animal, ten dollars per month, and for each additional pack animal, five dollars per month.

SEC. 10. Any person or persons who shall bring into this territory one or more wagons, or one or more pack animals, loaded with goods, wares, merchandise or provisions, shall pay a license for each wagon, five dollars, for each pack animal fifty cents: *Provided*, That in all cases where such wagon or pack animal is subject to an ad valorem tax, according to the provisions of the revenue act of this territory, they shall not be liable for such license.

SEC. 11. Any person or persons bringing goods, wares, merchandise or provisions into this territory, having no fixed place of business therein, and shall sell, offer for sale on commission or otherwise, shall be deemed, for the purposes of this act, a transient merchant, and shall pay a license tax of one-quarter of one per cent. on the value of such goods, wares, merchandise or provisions.

SEC. 12. Any person or persons bringing, or procuring to be brought into this territory, any drove or droves of cattle, horses, mules, asses, sheep or swine, shall pay a license tax as follows: For each head of cattle, horses, mules or asses, one dollar; for each head of swine, twenty-five cents; for each head of sheep, twenty-five cents. Such license shall be collected in the county where such stock is found, and every person who shall deal in the same within this territory, shall pay a license of twenty dollars per quarter: *Provided*, Any person raising stock in this territory shall not be required to pay a license for selling the same.

SEC. 13. If any person or persons who, under the provisions of sections eleven and twelve of this act, is required to pay a license tax, mentioned therein, shall, without first having procured and paid license, sell any goods, wares or merchandise, or stock, mentioned in either of such sections, the person or persons purchasing shall be responsible for the license tax thereon, and shall pay the same to the tax collector of the county in which such transaction was made, upon the demand of such tax collector; and if such person or persons fail or refuse to pay the same, then such tax collector shall levy upon and sell sufficient of such

goods, wares, merchandise or stock, to pay such license, together with costs, such seizure and sales to be made in the manner prescribed by law for the collection of delinquent taxes: *Provided*, That if any person or persons having the custody of goods or stocks liable to levy and sale, under the provisions of this act, shall pay the license tax due from the owners of such goods or stocks, then he or they shall have lien upon such property, for the amount of such license, the tax so paid, together with reasonable compensation for trouble incurred in the premises, and may retain such amount out of any moneys that may be or may come into his hands, belonging to such person or persons for whom such license tax was paid.

SEC. 14. Every brewer or manufacturer of malt or spirituous liquors, or manufacturers of pop, beer, or drinks of any kind, put up in bottles, shall pay a license as follows: Those whose business amounts to one thousand dollars or over per month, shall constitute the first class, and shall pay a license of twenty dollars per month; and those whose business is under one thousand dollars per month, shall constitute the second class, and pay a license of five dollars per month.

SEC. 15. Any person or persons who shall keep any banking game, or other game of chance, or gaming table, wherein any money, or representatives of money, are used, bet or ventured at any game of chance or hazard, and not prohibited by the laws of this territory, shall pay a license of fifty dollars per month for each house so kept.

SEC. 16. Every butcher shall pay a license of seven dollars per month: *Provided*, That any butcher carrying on business more than two miles from any city, town or village, or in any city, town or village containing less than one hundred inhabitants, and whose monthly receipts are less than one thousand dollars, shall pay a license tax of ten dollars per quarter.

SEC. 17. Every keeper of a picture gallery, daguerreotypist, photographer, or other artist, shall pay a license of ten dollars per quarter.

SEC. 18. All incorporated roads, bridges or ferries, or water companies, or any other incorporated company not specified in the provisions of this bill, or any other company or association, or persons taking or receiving toll, whose quarterly receipts reach the

sum of five hundred dollars, shall pay a license tax of twenty dollars per quarter. Those whose quarterly receipts shall not exceed five hundred dollars, shall pay a license tax of ten dollars per quarter. Those whose quarterly receipts shall reach one thousand dollars, shall pay a license tax of forty dollars per quarter. Those whose quarterly receipts shall reach two thousand dollars, shall pay a license tax of eighty dollars per quarter. Those whose quarterly receipts shall reach five thousand dollars per quarter, shall pay a license tax of two hundred and fifty dollars per quarter. And those whose quarterly receipts reach ten thousand dollars, shall pay a license tax of five hundred dollars per quarter.

SEC. 19. *Be it further enacted*, That it shall be the duty of any corporate or other company receiving toll, to cause any president, secretary, chief officer or directors of said company or companies, four times in each year, to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statement of all their receipts and expenditures, and it shall be the duty of said treasurer to examine said report, and he shall have power to hear testimony for and against the same, and if he approve of the same, he shall proceed to collect the tax imposed by this act upon said company or corporation, as provided by law in other cases: *Provided*, This only refers to carrying out section eighteen of this act.

SEC. 20. That all male persons in this territory, who are now, or who may hereafter be engaged in the laundry business, shall pay a license of fifteen dollars per quarter.

SEC. 21. Any person or company who shall bring and discharge from any steamer or other water craft a cargo of goods, wares or merchandise, in any port or landing in this territory, whose register tonnage shall be one hundred and fifty tons and under, shall pay a license of thirty dollars for each cargo so discharged; and those whose register tonnage shall be one hundred and fifty tons, shall pay a license of forty dollars for each cargo so discharged; and those whose register tonnage shall be two hundred tons and over, shall pay a license of fifty dollars for each cargo so discharged: *Provided*, That all steamers on the Pen D'Oreille or Flat Head river, and all steamers freighting from and to ports in this territory, shall pay a license of five dollars on each cargo so discharged.

SEC. 22. That for the purpose of preventing the evasion of the license required to be collected by the provisions of this act, all billiard tables, bar fixtures and furniture, belonging to or in use for carrying on the business of any billiard hall, drinking saloon, restaurant or eating house, are held liable for the amount due for the licenses and taxes assessed on the same; and it is hereby expressly provided, that upon the failure of any one keeping any such establishment, or exercising ownership thereon, to pay the license of the same in manner and form provided by law, the treasurer of the county where such establishment may be located, or any properly authorized officer whose duty it shall be to enforce the collection of any such license, may seize any such tables, bar fixtures, and such appurtenances, and shall proceed to sell, as upon executions at law, any such article, or so much thereof as may be required for the payment of such tax or license as may be due and owing on account of same.

SEC. 23. Every person who shall carry on the lottery or gift or prize distribution business, within this territory, shall pay a license of fifty dollars per quarter; and every person who shall offer for public raffle, any species of property in this territory, shall pay a license tax for each particular species of property so offered, the sum of ten dollars.

SEC. 24. All keepers of mineral, hot or warm springs, when the same are used for bathing purposes, shall pay a license of ten dollars per month, and all keepers of bath houses, or bathing establishments other than springs, shall pay a license of ten dollars per quarter.

SEC. 25. That any company having a line or lines of telegraph in the territory, shall pay a license as follows: On every business office kept in any city, town or village, containing a population of three hundred persons and over, shall pay a license of ten dollars per month. All other telegraph offices kept on roads or stations, where general business is transacted, shall pay a license of five dollars per month, said license to be procured in the counties where the said offices are established.

SEC. 26. Any person or persons who shall transact any business, trade, or occupation, or profession, for which a license is required by this act, without first obtaining the same, shall be deemed guilty of a misdemeanor, and upon conviction before any court

having competent jurisdiction, be fined in any sum not less than ten dollars, nor more than one hundred dollars, and stand committed until such fine shall be satisfied, and like proceedings shall be had thereon in cases of misdemeanor as prescribed by law.

SEC. 27. This act to take effect and be in full force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act to regulate Proceedings in Civil Cases in Courts of Justice of Montana Territory," approved December 23, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section eighteen, of the act to which this is amendatory, be amended by adding the following to said section: "*Provided, also,* That all actions, both real and personal, arising under the provisions of said eighteenth section, in any county which may be attached to another county for judicial purposes, shall be commenced and tried in the county to which said county may be attached: *Provided, further,* The same be not within the jurisdiction of the probate court of said county, so attached for judicial purposes."

SEC. 2. That section twenty of said act be amended by inserting the following words: "or where the plaintiff resides, and the defendant or any of them may be found," between the words "action" and "or," as found in the published acts of the territory of Montana, passed at the fourth session, and in the third line of said section.

SEC. 3. That section thirty of said act be amended by adding the following to said section: "*Provided,* That in the absence of the judge of the district court from the county, it shall be the duty of the clerk of said court to receive the affidavit prescribed in said section, and he shall then have power and it shall be his duty to make the order of publication, which shall have the same force and effect as if made by the judge of said court."



SEC. 4. That section thirty-one of said act be amended by striking out the words "three months," where they occur in the sixth line, as found in said printed acts of 1867, in said section thirty-one, and insert, instead thereof, "four weeks." Also, amend said section by striking out the word "at," where it occurs in said section, as printed in the fourteenth line, and insert, in lieu thereof, the words "sixty days after." Also, amend said section, by striking out all of said section in relation to the appointment of an attorney by the court for a non-resident defendant.

SEC. 5. That section forty-two of said act be amended by adding the following to said section: "*Provided*, That a demurrer and answer shall in no case be filed at the same time to the same cause of action, but demurrers must be disposed of before any other pleading to the same cause of action shall be filed."

SEC. 6. That section forty-six of said act be and the same is hereby repealed.

SEC. 7. That the answer of the defendant shall contain a specific denial to each allegation in the complaint, intended to be controverted by the defendant, and may contain a statement of any matter in avoidance, or a counter-claim, a set-off as defense to any of the allegations in the plaintiff's complaint.

SEC. 8. That section fifty-five of said act be and the same is hereby repealed.

SEC. 9. That in all cases of the verification, the affidavit of a party, his agent or attorney, shall state that he has reason to believe, and does believe, that the matters as stated in the pleadings are true.

SEC. 10. That sections one hundred and twenty, one hundred and twenty-one, and one hundred and twenty-two, of said act, be and the same are hereby repealed.

SEC. 11. That the plaintiff or plaintiffs, at the time of issuing the summons, or at any time afterwards, may have the property of the defendant, not exempt from execution, attached as security for the satisfaction of any judgment that may be recovered in said action, unless the defendant give good and sufficient security to secure the payment of said judgment: *Provided*, That no writ of attachment shall be issued until the plaintiff, his agent or attorney, shall file with the clerk an affidavit, showing that the defendant

is indebted to the plaintiff upon a contract, express or implied, for the payment of money, gold dust or other property, then due, which is not secured by a mortgage lien, or pledge upon real or personal property, stating the amount of such indebtedness, (as near as may be.)

SEC. 12. That before issuing the writ of attachment, the clerk shall require a written undertaking upon the part of the plaintiff, to be filed, in a sum not less than double the amount claimed by the plaintiff, with sufficient sureties, (who shall be resident freeholders or householders in the county where the action is commenced,) to the effect that if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not to exceed the sum specified in the undertaking, which undertaking shall be approved by the clerk. Said sureties may be required to justify before the clerk, to the effect that each for himself is worth the amount specified in the undertaking, over and above his debts and liabilities, in property exempt from execution, in the county where the action is commenced.

SEC. 13. That actions may be commenced and writs of attachment issued upon any debt for the payment of money, or specific property, before the same shall have become due, when it shall appear by the affidavit, in addition to what is required in section ten of this act: First, that the defendant is leaving or is about to leave this territory, taking with him or her, property, moneys or other effects, that might be subject to the payment of the debt; second, that the defendant is disposing of his property, or is about to dispose of his property, subject to execution, for the purpose of defrauding his creditors: *Provided*, That any judgment obtained under the provisions of this section, shall be with a rebatement of the interest from the time said judgment is rendered until the time at which said debt would have become due: *And provided, also*, That the defendant may by plea put in issue the matters alleged in the affidavit herein required, and if the plaintiff fail to substantiate some one of the causes required to be in said affidavit, the suit for debt or debts not due shall abate.

SEC. 14. That section one hundred and seventy-three of the

act which this is intended to amend, be and the same is hereby repealed.

SEC. 15. That when a verdict is given, and is not informal or insufficient, the clerk shall immediately record it in full in the minutes, and shall read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, should it be upon a trial of a person charged with a felony or misdemeanor, the jury shall again be sent out; but in all civil cases, if three-fourths of the jurors agree upon a verdict, it shall stand and have the same force and effect as if agreed upon by the whole of the jurors.

SEC. 16. That sections 408, 409, 410, and 411, of said act, be and the same are hereby repealed.

SEC. 17. That any party to an action in any of the courts of this territory may have the depositions of witnesses taken out of this territory, before any person authorized to administer oaths by the laws of the territory, state or government where taken, upon serving the adverse party with notice, as required in section four hundred and four of the act to which this is amendatory; and said depositions shall be subject to all the objections and restrictions provided by said act for the taking and using depositions in this territory, except that if taken by any officer other than a court, or clerk of a court, having a seal, there shall be appended a certificate of a court, or clerk, having a seal, certifying that such officer before whom the deposition was taken, was, at the time said deposition was taken, authorized to administer oaths according to the laws in force in said government, state, territory, or the District of Columbia.

SEC. 18. That section four hundred and sixty-eight be amended so as to read: "The judgment and order of the court, or judge, made in cases of contempt, shall be final and conclusive. The punishment shall be by fine and imprisonment, but no fine shall exceed the sum of five hundred dollars."

SEC. 19. That an act amendatory of "An Act to regulate proceedings in civil cases, in the courts of justice in Montana territory," approved December 24, 1867, and all other acts and parts of acts, in conflict with the provisions of this act, be and the same are hereby repealed.

SEC. 20. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act to regulate Proceedings in Civil Cases, in the Courts of Justice of Montana Territory."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That sections one hundred and thirty-six and one hundred and thirty-seven of an act entitled "An Act to regulate proceedings in civil cases, in the courts of justice of Montana territory," be so amended as to read as follows: "SECTION 136. The defendant may at any time release any property in the hands of the sheriff by virtue of any writ of attachment, by executing an undertaking as provided for in the next section, and all the proceeds of sales and money collected by the sheriff, and all the property attached remaining in his hands, shall be released from the attachment and delivered to the defendant, upon the justification of the sureties on the undertaking."

SEC. 2. That section one hundred and thirty-seven shall read—"Before releasing such attached property as aforesaid to the defendant, the sheriff shall require an undertaking, executed by the defendant and at least two sureties, residents and freeholders, or householders in the county, to the effect that in case the plaintiff recover judgment in the action, defendant will, on demand, redeliver such attached property so released to the proper officer, to be applied to the payment of the judgment, and that in default thereof, the defendant and sureties will pay to the plaintiff the full value of the property so released. The sheriff may fix the sum for which the undertaking shall be executed, and if necessary, in fixing such sum, to know the value of the property released, the same may be appraised by three disinterested persons, to be appointed by the sheriff. And if any sheriff shall release any property held by him under or by virtue of any writ of attachment, without first taking such bond as herein required,

he and his sureties shall be liable for the value of such property so released."

SEC. 3. All acts or parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to regulate Appeals from the Probate to the District Court of the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. Any party, feeling aggrieved by the judgment of the probate court, may appeal therefrom to the district court for the county in which said probate court is held, or to which it may be attached for judicial purposes. The party appealing shall be known as the appellant, and the adverse party as the respondent.

SEC. 2. All appeals taken by virtue of the provisions of this act, shall be perfected within thirty days from the rendition of the judgment appealed from, and shall be tried *de novo*, in said district court.

SEC. 3. The appeal shall be taken by filing with the clerk of the court in which the judgment appealed from is entered, or with the judge of said court, if there be no clerk, a notice stating the appeal from the same, and serving a copy of such notice upon the adverse party or his attorney.

SEC. 4. The party appealing shall file with the judge or clerk of said court, within five days from the filing of the notice of appeal, as provided in section three of this act, an undertaking in double the amount of the judgment appealed from, or if the judgment be for the recovery of specific personal property, in double the value of such property, with at least two sufficient sureties, and conditioned that the party appealing will pay any judgment that may be rendered against him in the district court, as well as all costs that may be awarded against him, and for the prosecution of such appeal with effect.

SEC. 5. If the party appealing be the party in whose favor judgment was rendered, he shall likewise execute and file an undertaking as aforesaid, in a sum equal to double the amount of the costs in the case, conditioned to pay all costs that may be adjudged against him, and for the prosecution of such appeal with effect.

SEC. 6. The undertaking provided for in the two preceding sections, shall be accompanied by the affidavit of the sureties that they are residents of the county, and householders or freeholders thereof, and each worth the amount specified in the undertaking, over and above their debts, liabilities and property by law exempt from execution, but several sureties may state that they are worth less than the amount mentioned in the undertaking, beside such exemptions, if the whole amount equals the amount of two sufficient sureties.

SEC. 7. Within ten days after filing the notice of appeal and undertaking provided for in the preceding sections, and payment of fees therefor, the said judge or clerk of said court shall make a full and complete transcript from the docket of all proceedings had in said action, and transmit the same, together with the complaint, answer, motions, pleadings, and all other papers pertaining to or belonging to said cause, to the clerk of said district court.

SEC. 8. If any execution shall have been issued upon a judgment appealed from, the judge or clerk of said court, upon receiving the notice and undertaking as hereinbefore provided, shall issue an order directing the officer having such execution in his possession, or charged with the execution of the same, to stay all proceedings thereunder. Such officer, upon the payment of his fees for services rendered on such execution, shall thereupon relinquish all property levied upon by him, and deliver the same, together with all money collected from sales or otherwise, to the judgment debtor.

SEC. 9. If the party appealing to the district court, as provided in this act, shall fail to reduce or enlarge the judgment appealed from, ten dollars or more, or revise the same in said district court, he shall not recover any of the costs of appeal.

SEC. 10. That all appeals taken by virtue of this act, shall be tried in the district court upon the papers in the cause, as if the same had originally been instituted in said court, unless said

court, upon such terms as may be just, allow other papers to be filed therein, and both appellant and respondent shall have the benefit of objection taken in said probate court.

SEC. 11. That the sheriffs of the different counties of this territory are charged with the execution of process issued from said probate court, in like manner as provided for in cases in the district court, for which services they shall receive fees as now provided by law.

SEC. 12. This act shall be exclusively applicable to the probate court in the exercise of jurisdictional powers under and by virtue of an act entitled "An Act to regulate proceedings and define the jurisdiction of the probate courts of the territory of Montana," approved December twenty-third, one thousand eight hundred and sixty-seven.

SEC. 13. In all cases of appeals taken under the third section of the act last aforesaid, the same shall be perfected and taken, and with like effect when taken, as provided for in cases of appeals in justices' courts in criminal cases.

SEC. 14. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

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AN ACT creating the Office of Clerk of Probate Court.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That the office of clerk of probate court be and the same is hereby created and established for each and every probate court in the territory of Montana.

SEC. 2. The said probate clerks shall be appointed by their respective judges, to hold their office at the will and pleasure of the probate judge so appointing them: *Provided, however,* That the appointment of clerk shall be optional with the judge in such counties; when the judge does not deem it necessary, he may and is hereby authorized to act as ex officio clerk, subject to give such additional bond as is provided in section three.

SEC. 3. The clerk so appointed or judge acting *ex officio* clerk of his own court, shall execute and file a bond, with two or more sufficient sureties, in the penal sum of one thousand dollars, payable to the territory of Montana, conditioned for the faithful performance of his duty, which bond shall be approved by the county commissioners of the respective counties, and filed in the office of the county clerk, prior to his entering upon the discharge of his duties as such probate clerk.

SEC. 4. The clerks of said probate court shall be entitled to such fees as are allowed to probate judges for services, as may be rendered in the capacity of clerk of said probate court.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved December 30, 1868.

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AN ACT in relation to Costs.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That in any suit hereafter commenced in any of the courts of this territory, the defendant may file a motion asking the court to dismiss the action, or rule the plaintiff to [give] such security as will be approved by the court, which motion shall be accompanied by the affidavit of the defendant, his agent or attorney, to the effect that the plaintiff is insolvent or is not able to pay the cost likely to accrue upon said case, and the court shall dismiss such action, unless the plaintiff justifies to the satisfaction of the court by competent witnesses, or give such bond as will be approved by the court, or deposit such amount of money with the clerk as shall be required by the court.

SEC. 2. That any person may commence and prosecute an action in any of the courts in this territory, who will file an affidavit, stating that he has a good cause of action, that he is unable to pay the costs in money, or to procure security to secure the same; then it is hereby made the duty of the officers of the courts to issue all writs and serve the same without demanding or receiving their fees in advance.



SEC. 3. That section one, of an act entitled "An Act providing for the payment of jurors, witnesses and officers in Montana territory," approved November 20, 1867, be and the same is hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an "Act creating the office of District Attorney in each of the Organized Judicial Districts of Montana Territory," approved January 10, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section three of said act be so amended as to read as follows: "They shall be public prosecutors in their respective districts, and shall sign all bills of indictment that may be found by the grand jury, and prosecute and defend on behalf of the people all public prosecutions and civil suits arising in their districts before the supreme and district courts, wherein the people of this territory are a party."

SEC. 2. Section four of said act be so amended as to read as follows: "They shall, when required by any member of the grand jury, give their opinion to them on any matter of law pertaining to their duties as grand jurors, and shall be the legal advisers of territorial, county and township officers, and shall, when requested by any territorial, county or township officer, give to them their opinion on any matter of law pertaining to their duties, without fee or reward. They shall also prosecute on behalf of the people all forfeited recognizances, and shall receive ten per centum of all moneys collected, and ten per cent. on all forfeited bonds and recognizances and undertakings wherein the people are a party, or necessarily involved in the action."

SEC. 3. All laws in conflict with this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT to repeal Section 20 of an Act entitled "An Act concerning the Foreclosure of Mortgages," approved February 8, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section twenty of an act entitled "An Act concerning the foreclosure of mortgages," approved February 8, 1865, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT conferring authority on Probate Judges to issue Writs of Injunction, Quo Warranto and Mandamus in certain cases.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That whenever an action shall have been commenced in any of the district courts of this territory, wherein writs of injunction, quo warranto and mandamus may properly issue, by virtue of the provisions of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 2, 1867, the probate judge of the county in which such action is brought, in case of the absence or disability of the district judge, is hereby authorized to issue such writs, which shall have the same force and effect as if issued from the district court.

SEC. 2. Whenever such writs shall be issued by the probate judge in pursuance with the provisions of this act, the same shall be made returnable to the district court of the county in which said action is brought, or to which said county may be attached for judicial purposes, which shall be executed and returned in like manner as if issued from said district court.

SEC. 3. In all cases of contempt, arising from the violation of any writ or order issued under the provisions of this act, the district judge shall hear and determine the same as though said

writ or order was originally issued by him; or, in case of the absence or other disability of said district judge, the said probate judge shall hear the same as provided by law in cases of contempt.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

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AN ACT to amend an Act entitled "An Act concerning Crimes and Punishments."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one hundred and twelve of "An Act concerning crimes and punishments" be so amended as to read as follows: "If any judge, justice of the peace, sheriff, coroner, constable, clerk or other officer, or assessor of this territory, ministerial or judicial, shall receive or take any fee or reward, to do or execute his duty as such officer, except such as is or shall be allowed by law; or if any such officer shall ask, demand or receive (either before or after service performed) any other or greater fees than are allowed by law, every such officer so offending shall be deemed guilty of extortion, and on conviction shall be fined in any sum not less than two hundred dollars, nor more than one thousand dollars, and on conviction be removed from office, and shall, at the suit of the party aggrieved, be liable for treble the amount of the fees so illegally charged and received.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

## AN ACT concerning Boats.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. Any boat found within the waters of this territory is liable, First, for all debts contracted by the master, owner, agent, clerk or consignee thereof, on account of supplies furnished for the use of such boat, or on account of work done or materials furnished in building, repairing, fitting out, furnishing, or equipping such boat; second, for all demands or damages accruing from the non-performance or mal-performance of any contract of affreightment, or any contract relative to the transportation of persons or property entered into by the master, owner, agent, clerk or consignee thereof; third, for all injuries to persons or property by such boat, or by the officers or crew, done in connection with business of such boat.

SEC. 2. Claims growing out of any of the above causes are liens upon such boat, its apparel, tackling, furniture and appendages, including barges and lighters, if owned by the owners of such boat, and used therewith at the time suit is commenced.

SEC. 3. Such liens shall take preference of any claim against the boat itself, or any or all of its owners, growing out of any other causes than those above enumerated, and as between themselves they shall be preferred in the following order: First, those resulting from wages for services rendered on board such boat, within the year then passed, providing that suit is brought within twenty days after the cessation of such labor; second, those resulting from contracts made within this territory; third, all other causes.

SEC. 4. Actions against boats, under the provisions of this act, shall not be brought after the lapse of one year from the time the cause of action accrued.

SEC. 5. The lien shall attach from the commencement of suit, subject only to such other liens as are of preferred class.

SEC. 6. Any raft found in the waters of the territory, shall be liable for all debts contracted by the owner, clerk, pilot or agent thereof, on account of work done, or services rendered for such raft. Claims growing out of either of the above causes shall be liens upon the raft, its tackling and appendages, for the

term of twenty days from the time the right thereof accrued, and the same rules shall govern, and the same process shall be had, that is prescribed for similar liens against boats.

SEC. 7. Any person desiring to take the benefit of this act shall file with any judge, or clerk of any court, or justice of the peace having jurisdiction, a complaint in writing, duly verified by the plaintiff, or his agent or attorney, which complaint shall show that the plaintiff is entitled to the benefit of this act, whereupon, such judge, clerk or justice of the peace, shall issue his warrant to the proper officer, commanding him to seize the boat, its tackling, apparel, furniture and appendages, and detain the same until released by due course of law.

SEC. 8. The complaint shall describe the boat by name as defendant, but, if it have no name, then by such description as will enable the officer attaching to seize the proper property.

SEC. 9. The usual summons shall be issued, directed to the boat by name, or to the property to be attached, if no name appear, and be served upon the master, owner, clerk, agent or consignee thereof, and if none of them can be found, by posting up a copy in some conspicuous part of the boat, or property to be attached. The warrant shall be served according to the directions it contains.

SEC. 10. Any sheriff, constable or city marshal, or marshal of the territory, may serve the warrant and summons above mentioned, whether the same issue from the office of clerk, or from a judge or justice of the peace, and any clerk, judge or justice may, in his discretion, appoint any suitable person to serve such summons and warrant, who shall have all the power of a sheriff in the premises.

SEC. 11. Any master, agent, clerk, consignee, or other person, interested in the boat, may appear by himself, his agent or attorney, for the defendant, and conduct the defense of the suit and no continuance shall be granted to the plaintiff while the boat is in custody.

SEC. 12. The boat may be discharged at any time before final judgment, by giving bonds with at least two sureties, to be approved by the officers serving the warrant, or by the clerk, judge or justice who issued it, in a penalty double the plaintiff's

demand and costs, conditioned, that the obligors will pay the amount found due to the plaintiff with costs.

SEC. 13. If judgment be rendered against the boat, before it is discharged, as provided in the last section, execution shall issue against it, together with its apparel, tackling, furniture and appendages.

SEC. 14. The officer may sell any of the furniture and appendages of the boat, if by doing so, he can satisfy the demand; if he sell the boat itself, he must sell it to the bidder who will advance the amount necessary to satisfy the execution for the lowest fractional share of the boat, unless the person appearing for the boat, require a different and equally convenient mode of sale.

SEC. 15. If a fractional share of the boat be thus sold, the purchaser shall hold such share or interest jointly with the owners.

SEC. 16. Nothing herein contained shall affect the right of a plaintiff to sue in the same manner as though this act had not been enacted.

SEC. 17. It shall be sufficient for the plaintiff to allege in his complaint or affidavit that the services were rendered or material furnished the boat by its name.

SEC. 18. This act to take effect and be in force from and after its passage.

Approved January 13, 1869.

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AN ACT to provide for the Exemption of Homesteads from forced sale upon Execution or other final process.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. A homestead, consisting of any quantity of land, not exceeding eighty acres, used for agricultural purposes, and the dwelling house thereon and its appurtenances, to be selected by the owner thereof, and not included in any town plot or city, or village, or, instead thereof, at the option of the owner, a quantity of land, not exceeding in amount one-fourth of an acre, being

within a town plot or city or village, and the dwelling house thereon, and its appurtenances, owned and occupied by any resident of this territory, shall not be subject to forced sale on execution or any other final process from a court: *Provided*, Such homestead shall not exceed in value the sum of two thousand five hundred dollars.

SEC. 2. Such exemption shall not affect any laborers' or mechanics' lien, or extend to any mortgage thereon, lawfully obtained, but such mortgage or other alienation of such homestead by the owner thereof, if a married man, shall be void unless the wife join in the execution of the conveyance thereof; and nothing contained in this act shall be so construed as to affect any existing debt or debts contracted in this territory prior to the passage of this act.

SEC. 3. Whenever a levy shall be made upon the lands or tenements of a householder whose homestead has not been selected and set apart by metes and bounds, such householder may notify the officer, at the time of making such levy, of what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone shall be subject to sale under such levy.

SEC. 4. If the plaintiff in execution shall be dissatisfied with the quantity of land selected and set apart as aforesaid, the officer making such levy shall cause the same to be surveyed, beginning at a point to be designated by the owner, and set off in a compact form, including the dwelling house and its appurtenances, to the amount specified in the first section of this act, and the expense of such survey shall be chargeable on the execution, and collected thereupon, if it shall appear, after such survey, that the owner of such land did not correctly state his metes and bounds, otherwise the expense of such survey shall be borne by the person directing the same.

SEC. 5. Any person owning and occupying any dwelling house on land not his own, which land he shall be rightfully in possession of by lease or otherwise, and claiming such house as his homestead, shall be entitled to the exemption of such house.

SEC. 6. Real estate exempt from forced sale on execution or other final process, as the homestead of a family, shall likewise,

after the death of the owner thereof, be exempt from the payment of his debts, in all cases in which any infant children of the said owner shall survive him, and no executor or administrator shall have a right to the possession of any real estate so exempted, or to the rents or profits of the same.

SEC. 7. The owner of a homestead may remove therefrom, or sell and convey the same, and such removal or sale and conveyance shall not render such homestead subject or liable to forced sale, on execution or other final process, issued against such owner, nor shall any judgment or decree of a court be a lien on such homestead, for any purpose whatever: *Provided*, That this act shall not be so construed as to, in any manner, relate to judgments or decrees rendered on the foreclosure of mortgages, either equitable or legal.

SEC. 8. On the death of the owner of such homestead, the same shall descend to his widow, and she shall take and hold the same during her natural life, freed from the incumbrance of all judgments and claims against the deceased or his estate except mortgages lawfully executed thereon.

SEC. 9. That the provisions of this act shall only apply to married men or the head of a family.

SEC. 10. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

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AN ACT authorizing County Clerks to administer Oaths, and for other purposes.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That county clerks and ex officio county recorders of each county of the territory of Montana, be and are hereby authorized to administer legal oaths, and take such acknowledgments to any instrument of writing now required to be acknowledged by any law of this territory.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 6, 1869.



AN ACT to amend an Act entitled "An Act relating to the discovery and possessory right of Placer Mines," approved December 11, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That the act entitled "An Act relating to the discovery and possessory right of placer mines," approved December 11, 1867, so far as the same applies to the counties of Deer Lodge and Missoula, be and the same is hereby repealed.

SEC. 2. This act to take effect from and after its passage.

Approved December 30, 1868.

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AN ACT providing for the admission of Attorneys before the Supreme Court of the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. All attorneys who have been admitted to practice before the district courts of the territory of Montana, may, upon motion, and proof of good moral character, be admitted as attorneys and counselors at law, to practice in the supreme court of the territory of Montana.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved December 15, 1868.

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AN ACT to amend an Act entitled "An Act relative to the Pre-emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby," approved December 12, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That section one of said act be amended so as to read as follows: "SECTION 1. That whenever the citizens of any town located, or that may hereafter be located, upon

the public lands of the United States, shall desire to obtain title to the town site thus occupied by them, it shall be lawful for the corporate authorities of such town, or if the same be unincorporated, then for the judge of the probate court of the county in which such town is located, whenever such desire of the citizens is certified to such incorporate authorities, or judge of the probate court, as the case may be, by a petition signed by a majority of the resident property holders of such town, to enter, at the proper land office, so much of the land that such town may be entitled to under the provisions of the act of congress entitled 'An Act for the relief of the inhabitants of cities and towns upon the public lands,' approved March 2, 1867, as may be actually necessary for the purposes of said town, in trust for the several use and benefit of the occupants thereof, according to their respective interests: *Provided*, That nothing in this act contained shall be so construed as to authorize or empower the said incorporate authorities or probate judge, as the case may be, to enter or to cause to be surveyed, as hereinafter provided, any tract or legal subdivision of land, not actually occupied as a town site, in whole or in part, by the citizens of such town: *Provided, further*, That no entry of any town site, under the provisions of this act, shall interfere with the prior rights of any person claiming any land under the homestead or pre-emption laws of the United States."

SEC. 2. That section eight of said act be and the same is hereby amended, so as to read as follows: "SECTION 8. The number of lots which any one claimant shall be entitled to pre-empt, under the provisions of this act, shall be two, not exceeding in area four thousand two hundred square feet each, and such additional lot or lots upon which said claimant may have substantial improvements of the value of not less than two hundred and fifty dollars. When any claimant shall make application to enter more than two lots, he shall prove, in addition to other matters of proof required by this act, to the satisfaction of said incorporate authorities or probate judge, as the case may be, by the affidavit of one or more reliable witnesses, the nature, character and actual cash value of the improvements upon such additional lot so sought to be entered by him."

SEC. 3. The residue of lots left in the possession of the incor-

porate authorities or probate judge, as the case may be, and unclaimed, shall be open to settlement and improvement by actual settlers. Whenever any person shall desire to settle upon any such unclaimed lot, he shall file with the incorporate authorities or probate judge, as the case may be, a notice setting forth his settlement upon such lot or lots, particularly describing the same, and the date of his settlement thereon, and thereafter, when he shall make proof of having resided upon such lot or lots for a period of three months continuously, he shall be permitted to pre-empt such lot or lots upon the same terms and conditions as an original resident of such town.

SEC. 4. That whenever the term of office of any officer authorized by this act to make entry of a town site shall expire, or he shall resign, or be removed from office, he shall turn over all books and papers relative to such entry to his successor in office, and thereafter the said trust shall be discharged in every particular by such successor.

SEC. 5. It shall be the duty of the corporate authorities or county judge, as the case may be, when any town site has been located and surveyed under the provisions of this act, upon the petition of ten resident householders of said town site, to locate and set apart, by and with the advice and approval of the board of school directors of the district in which said town site may be located, a site for a district school, not more than one acre, and the said county judge or corporate authorities shall convey by deed to said board of directors, the lots included in said location, and said board shall manage the same as other school property of the district is managed. And upon the petition of twenty resident householders, as aforesaid, the probate judge or corporate authorities, with the advice and approval of the county superintendent of the county in which said town site is located, shall set apart a site for a college or university, not to exceed twenty acres, and the said location shall be held in trust by the county judge or corporate authorities for said college or university: *Provided*, Said locations shall not include any lot held by a *bona fide* claimant, nor interfere with vested rights.

SEC. 6. That if any portion of said city or town shall fall upon surveyed public lands, which have hitherto been occupied and improved by any person or persons holding and occupying the

same in good faith, prior to the passage of said act entitled "An Act relative to the pre-emption of town sites upon public lands, and the disposal of trusts created thereby," it shall be the duty of the corporate authorities or probate judge, as the case may be, if the petition aforesaid shall have been presented to him in pursuance of the provisions of said act, to enter said land in conformity to the legal subdivisions thereof, as authorized by act of congress of the 2nd of March, 1867, and an act to amend the same, approved June 8, 1868, and upon the payment to him of the price paid in entering the same, and such other costs and expenses as are necessarily incurred by virtue of the provisions of this act, to make and deliver to the said occupant or occupants, as the case may be, a good and sufficient deed for the ground occupied by them.

SEC. 7. That section fifteen of said act be so amended as to read as follows: "SECTION 15. For the purpose of raising funds to defray the expenses incurred in entering, surveying and platting said town site, the probate judge or corporate authorities, as the case may be, are hereby authorized and empowered to borrow money at the customary rate of interest, and draw his or its draft upon the county or city treasurer, as the case may be, for such amount, which shall be paid out of the money received as the purchase price of lots, as hereinbefore provided, which said funds are hereby pledged and set apart to be applied for this purpose."

SEC. 8. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT explanatory of an Act entitled "An Act relative to the Pre-emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section six of said act be so construed as to embrace and apply to only such portion of any legal subdivision

as shall be outside of the limits of ground actually occupied by the inhabitants of such town.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT concerning the drawing of Jurors in Deer Lodge and Madison Counties.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. The county commissioners of Deer Lodge and Madison counties, when a term of the district court may hereafter be held, shall, at least twenty days prior to the commencement of said term of court, select the names of one hundred persons, lawfully qualified to serve as jurors, from the county assessor's books of the county, and the names of the persons so selected, after being written on separate slips of paper, shall be deposited in a box, to be provided for such purpose, and from the names so deposited the county commissioners shall, alternately, draw the names of thirty persons, who shall be summoned as trial jurors for the next ensuing term of such district court.

SEC. 2. That it shall be the duty of the commissioners of Deer Lodge and Madison counties, at least twenty days prior to the assembling of a court authorized by law to inquire into public affairs, by the intervention of a grand jury, to select the names of sixteen persons, eligible to serve as jurors, and upon a venire being issued by the clerk of such court, the sheriff shall, at least five days prior to the meeting of the said court, summon said jurors to appear on the first day of the next term, and from such panel the court shall select twelve persons, who shall constitute such grand jury: *Provided*, The board of county commissioners of said counties shall not require a grand jury oftener than once every six months.

SEC. 3. If any officer shall fail or refuse to perform his duties, as required by this act, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any tribunal having

competent jurisdiction, shall be fined in any sum not exceeding five hundred dollars.

SEC. 4. That all acts or parts of acts conflicting with the provisions of this act, shall, as to the counties of Deer Lodge and Madison, be and the same are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

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AN ACT to amend an Act entitled "An Act defining the duties of County Treasurers, and the payment of County Warrants."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section three of an act entitled "An Act defining the duties of county treasurers, and the payment of county warrants," be so amended as to read as follows: "The county treasurers of the several counties of this territory shall, on the first Monday of every month, post upon the door of their offices, a list of all warrants that they have funds in their hands to redeem or pay, the payment for which has not been demanded during the month last passed, and, from the date of such notice, the interest on all warrants thus posted shall cease; and it shall be the duty of such treasurer to file a true copy of said notice in the office of the county clerk of his county, which clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be *prima facie* evidence of such posting: *Provided, however,* That in all cases where county warrants have been posted or advertised, as in this section directed, and not presented for payment within two months from the date of such notice, shall be passed over, and the money in the treasury be paid upon the next warrants in turn according to their number and registration as the law directs, but that such warrants, so passed, shall at any time thereafter take preference for payment upon presentation to such treasurer.

SEC. 2. All acts or parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT to amend "An Act defining the duties of Territorial Auditor and Territorial Treasurer of the Territory of Montana."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. Amend section three of said act, so as to read as follows: "SECTION 3. The territorial auditor shall furnish the collector of each county or district with blank licenses and receipts for money collected, or to be collected, subscribed by himself, taking the collector's receipt of the counties for the same."

SEC. 2. That the territorial auditor, treasurer, and superintendent of public instruction, are hereby authorized and empowered to report to the governor at the expiration of their term of office in eighteen hundred and sixty-nine, and the governor is hereby authorized to examine and settle their respective accounts, and cause to be published a full statement of said accounts in some newspaper published at the capital, and transmit a copy of said report to the legislative assembly.

SEC. 3. That the first day of December in each and every year shall be the end of the fiscal year for territorial purposes.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act to provide for the formation of Corporations for certain purposes," approved December 13, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one of an act providing for the formation of corporations, approved December 13, A. D. 1867, be

amended to read: "At any time hereafter, any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing, mining, mechanical or chemical business, dig ditches, build flumes, run tunnels, or to carry on any branch of business designed to aid in industrial or productive interest of the country, make, sign and acknowledge, before some officer competent to take acknowledgments of deeds, and file in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the secretary of the territory, a certificate in writing, in which shall be stated the corporate name of said company, and the object for which the company shall be formed, the amount of capital stock of the said company, the term of its existence, not to exceed twenty years, the number of shares of which the said stock shall consist, the number of trustees, and their names, who shall manage the concerns of said company for the first three months, and the name of the city, town, or locality, and the county in which the operations of said company shall be carried on.

SEC. 2. That sections twenty-eight, twenty-nine, thirty, thirty-six, thirty-seven, thirty-eight, thirty-nine, of the act of which this is amendatory, are hereby repealed.

SEC. 3. That section forty-three be so amended as to read, "Any company formed under the provisions of this act, for the purpose of constructing any ditch or flume, shall, within sixty days from the date of their certificate, commence work on such ditch or flume as shall be named in the certificate, and shall prosecute the work with due diligence until the same is completed, and the time of completion of any such ditch shall not be extended beyond a period of three years from the time the work was commenced, as aforesaid; and any company failing to commence work within sixty days from the date of certificate, or failing to complete the same within three years from the time of commencement as aforesaid, shall forfeit all the right to the route so claimed, and the same shall be subject to be claimed by any other company. The time for the completion of any flume constructed under the provisions of this act, shall not be extended beyond a period of three years, and the county commissioners of the counties in which roads and bridges may have been constructed



under the provisions of the act of which this is amendatory, shall have the right to purchase the same, upon agreement with said company or companies, and declare them free for public use."

SEC. 4. From and after the passage of this act, no corporations shall be formed under the provisions of the act of which this is amendatory, for the purpose of establishing ferries, toll bridges, or toll roads.

SEC. 5. This act to take effect and be in force from and after its passage.

— Approved January 6, 1869.

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AN ACT to amend an Act entitled "An Act creating certain Offices in the Territory of Montana, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies," approved Nov. 16, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section six of said act be and it is hereby so amended as to read, "Resignations shall be made by territorial and district officers to the governor, and of the county commissioners to the probate judge, and of county officers, except county commissioners, to the county commissioners in their respective counties."

SEC. 2. That section nine of said act be and it is hereby so amended as to read, "Whenever a vacancy shall occur at any time in the office of territorial treasurer, auditor, superintendent of public instruction, or district attorney, the governor, by and with the advice and consent of the legislative council, shall appoint some suitable person to perform the duties of such office, and when a vacancy shall occur in the office of county commissioner, the probate judge shall appoint some suitable person to perform the duties of such office; such officers, so appointed, shall hold their respective offices until the general election next following such appointment."

SEC. 3. All acts or parts of acts conflicting with this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 31, 1868.

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AN ACT to amend "An Act regulating Fees of Officers, Jurors and Witnesses," approved February 9, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

That under the head of fees of the clerk of the district court, said act be amended to read as follows :

SECTION 1. For index entries, the same fees as county recorders. For copies of record, same fees as county recorder. For each entry in index, fifteen cents.

SEC. 2. That all acts and parts of acts in conflict with this, the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act to define the duties of Territorial Superintendent of Public Instruction."

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That section six of the act herein mentioned be repealed, and the following be substituted in the place thereof : "The superintendent shall keep his office where there is a post office, and he shall give notice of his place of residence by publication, for at least three successive weeks, in the same newspaper published in the territory as may be most convenient to him ; and he shall receive a salary of two thousand dollars per annum, which shall be paid quarterly out of the territorial treasury, out of any moneys not otherwise appropriated.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved January 15

AN ACT repealing part of Section six of "An Act relative to the discovery of Gold and Silver Quartz Lodes or Ledges, and the manner of their location," approved December 25, 1868.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That so much of section six of said act as relates to, and requires the discoverers, or some pre-emptor, to deposit in the recorder's office, a specimen of the quartz ore or mineral taken from said lead, lode or ledge, which said specimen shall be properly labeled by the recorder and preserved in his office, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT amendatory of an Act entitled "An Act relating to Counties and County Officers," approved February 9, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. In addition to the authority delegated to them in article 1, section 14, the county commissioners of each county are hereby authorized to set aside a sum of not less than one nor more than twenty-five per cent. of the county fund annually, which shall be known as the contingent fund, to defray incidental expenses of the county.

SEC. 2. If a surplus of the fund set aside in section two of this act remain, it shall be paid out on registered warrants as other county funds, at the expiration of each quarterly settlement.

SEC. 3. Strike out section 11 of article 1, and insert, in lieu thereof, "Said board of county commissioners shall meet at the first county seat of their respective counties on the first Monday of May, August, November and February of each year, and may sit not exceeding four days at each term."

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

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AN ACT amendatory of an Act entitled "An Act relating to Counties and County Officers," approved February 9, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. In addition to the authority delegated to them in article first, section fourteen, the county commissioners of each county are hereby authorized to set aside a sum of not less than one nor more than twenty-five per cent. of the county fund annually, which shall be known as the contingent fund, to defray incidental expenses of the county.

SEC. 2. If a surplus of the fund set aside in section two of this act remain, it shall be paid out on registered warrants as other county funds at the expiration of each quarterly settlement.

SEC. 3. Strike out section eleven of article first, and insert, in lieu thereof, "Said board of county commissioners shall meet at the county seat of their respective counties, on the first Monday of May, August, November and February of each year, and may sit not exceeding four days at each term.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

AN ACT to authorize the Territorial Auditor to issue a duplicate Territorial Warrant in lieu of Territorial Warrant No. three of two hundred and forty-eight, for three hundred and ninety dollars, to E. W. Haskell.

*Be it enacted by the legislative Assembly of the Territory of Montana :*

SECTION 1. That the territorial auditor is hereby empowered and authorized to issue a territorial warrant for three hundred and ninety dollars, No. three of two hundred and forty-eight, to E. W. Haskell, in lieu of the original warrant of that number and amount issued to Ph. McGovern, and duly transferred by him to said E. W. Haskell, and now owned by said E. W. Haskell, and by him lost.

SEC. 2. That the territorial treasurer is hereby authorized to make on his books the original as lost, and duplicate issued in lieu thereof.

SEC. 3. That said duplicate warrant, when issued, shall take the place of the original warrant, in the order of registration and payment.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 14, 1868.

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AN ACT relating to Fires, and the protection of Timber and Grasses.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That any person who shall carelessly set fire to any timber or grasses, except for useful or necessary purposes, or who shall at any time make any camp fires, or shall light any fire for any purpose without taking sufficient steps to secure the same from spreading from the immediate locality where the same may be used, or shall fail in any instance to put out or extinguish said fire or fires before leaving or abandoning the same, shall be deemed

guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not to exceed twenty-five dollars, in the discretion of the court, and shall be liable for all costs and damages accruing from said act.

SEC. 2. Any person who shall wantonly or designedly set fire to any timber or grasses, for other than necessary purposes, or who shall, from a malicious intent, fail to extinguish every vestige of fire after making the same for even a necessary purpose, before leaving or abandoning the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined by a fine of not less than one hundred dollars, nor more than five hundred dollars, and imprisoned in the county jail or territorial prison for the term of not less than three months, nor more than six months, in the discretion of the court.

SEC. 3. All acts and parts of acts heretofore passed conflicting with this are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

Approved December 30, 1868.

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AN ACT to amend an Act entitled "An Act to provide increased Compensation to the Officers in this Territory," approved December 8, A. D. 1867.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That section four of said act, be so amended that it shall read as follows: "That the salary of the district judges of this territory, in addition to that now allowed by the United States government, be one thousand dollars annually, payable quarterly."

SEC. 2. That all acts and parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to be in force from and after its passage, and approval by the governor.

Approved January 15, 1869.

**AN ACT** to amend Section One of an Act entitled "An Act to amend an Act to provide increased Compensation to the Officers of this Territory," approved December 6, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

**SECTION 1.** That section one of the act which this is intended to amend, be amended so as to read as follows: "The salary of the governor of this territory, in addition to the sum already provided by the United States government, shall be and is hereby increased to the sum of one thousand dollars per annum.

**SEC. 2.** All acts or parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

**SEC. 3.** This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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**AN ACT** supplementary to an Act to provide for the Funding of the Debt of Montana Territory, approved December 3, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

**SECTION 1.** That the treasurer of Montana territory shall, on or before the first day of June, 1869, issue bonds of the territory of Montana for all territorial warrants, outstanding, which were issued prior to the first day of November, A. D. 1868.

**SEC. 2.** The said bonds shall be issued and paid as to interest and principal, in accordance with the provisions of the "Act to provide for the funding of the debt of Montana territory," approved December 3, 1867.

**SEC. 3.** The territorial auditor is hereby authorized and empowered to have printed, sufficient bonds to fund the balance of said territorial warrants issued prior to the first day of November, A. D. 1867.

**SEC. 4.** That any person or persons, having deposited with the territorial auditor, territorial warrants, and failing to procure bonds, prior to the first day of June, 1868, shall be entitled to

their bond, by paying to the territorial treasurer the difference between said warrants and sum fixed in said bonds in cash.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

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AN ACT to amend an Act entitled "An Act defining the Council and Representative Districts of the Territory of Montana, and appropriating the Members of the Legislative Assembly thereof," approved December 13, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one, of an act entitled "An Act defining the council and representative districts of the territory of Montana, and appropriating the members of the legislative assembly thereof," approved December 13, 1867, be and the same is hereby amended, so as to read as follows: "SECTION 1. That the next session of the legislative assembly of the territory of Montana, shall convene at the seat of government of said territory, on the first Monday of December, one thousand eight hundred and seventy, at 12 o'clock, M., on that day, and biennially thereafter."

SEC. 2. That in case an extraordinary session of the legislative assembly shall become necessary, or be convened after the next general election, then the members of the council whose terms of office have not expired, together with the members of the council and house of representatives elected at the said next general election, shall constitute the said legislative assembly.

SEC. 3. That all acts or parts of acts in anywise conflicting with this act, be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.



AN ACT to authorize the County Commissioners of Choteau County to establish a system of Wharfage at Benton City, in said County.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. The county commissioners of Choteau county are hereby authorized, if they deem proper, to collect a wharfage fee at Benton City in said county, subject to the restrictions herein contained. The said commissioners are authorized to collect from each and every steamboat, landing at said port, between Fort Benton and old Fort La Barge, or the point opposite which Fort La Barge formerly stood, a sum of money not to exceed ten dollars per day for each and every day or fractional part thereof, which such boat lies between the points above named.

SEC. 2. The said commissioners may appoint a wharf master, who, before entering upon his duties, shall file with the county clerk of said county a bond, with at least two sufficient sureties, to be approved by the probate judge and treasurer of said county, in the sum of one thousand dollars, conditioned that he will faithfully perform the duties of his office as prescribed by this act. He shall report, at least once in every week during the season in which the waters of the Missouri are navigable, to the county treasurer of said county, the number of steamboats landing within said limits, the number of days each one has laid there, the number at that time remaining, the amount collected from each, and the total amount collected; and he shall, at least once in every month, pay into the county treasury all moneys collected by him during the month last past.

SEC. 3. All moneys collected under the provisions of this act shall be expended under the supervision and direction of the county commissioners of said county, in the building and construction of a wharf or wharves to be located at such place or places as the said commissioners may select: *Provided*, That such wharf or wharves, pier or piers, shall be constructed within the limits hereinbefore prescribed.

SEC. 4. The county commissioners shall pay to the wharf master a reasonable compensation, to be allowed and paid out of the fund collected under the provisions of this act.

SEC. 5. In case of refusal by any master, clerk, agent, owner, consignee, or other officer or person interested in said steamboat,

to pay the amount of wharfage as fixed by the county commissioners in accordance with the provisions of this act, the wharf master may proceed to collect the same in the same manner as is prescribed by law for collectors in enforcing the collection of licenses on like property.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act to prevent the collection of Illegal Toll," approved December 23, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one, of an act entitled "An Act to prevent the collection of illegal toll," approved December 23, 1867, be amended to read as follows: "That any person or association of persons charging toll upon any road, bridge or ferry without authority of law, or who shall charge more toll than is allowed by his or their charter, shall be liable to the person or persons paying such illegal toll, in ten times the amount so paid, which may be recovered in any court, having jurisdiction, and in addition thereto, shall be subject to a criminal prosecution, and upon conviction, shall be fined in any sum, not less than fifty dollars, nor more than five hundred dollars, to be imposed and collected as fines in other cases, one-half of which fine shall go to the informant, and one-half shall be paid into the county treasury for the benefit of the school fund of the county in which the offense was committed."

SEC. 2. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

AN ACT to repeal an Act entitled "An Act to prevent the sale of Intoxicating Liquors to Soldiers."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That an act entitled "An Act to prevent the sale of intoxicating liquors to soldiers," approved January 6, 1865, be and the same is hereby repealed.

SEC. 2. That all acts and parts of acts, conflicting with this act, be and the same are hereby repealed.

SEC. 8. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

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AN ACT in relation to Public Highways.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the several boards of county commissioners, on the petition of thirty *bona fide* citizens of any township of this territory, may, in their discretion, establish such township, or any part thereof, into suitable and convenient road districts, and cause a brief description of the same to be entered on the county records. That in all cases where such petition is presented to the board of county commissioners of any county, they shall, prior to granting the same, cause a public notice thereof to be given by publication or otherwise, as they, the commissioners, may elect.

SEC. 2. The county commissioners shall, annually, at the February term thereof, appoint a supervisor of roads, for each road district in the county, and shall at any time fill any vacancy that may occur in such office; and the county clerk of each county shall immediately notify all persons who have been appointed as supervisors, and they shall qualify within twenty days after their appointment, and such supervisors shall take an oath before entering upon the duties of their office, for the faithful performance of their duties; that they will call out all persons in their respective districts liable to work on highways therein; that they will super-

intend the labor thereon, and see that the same is faithfully performed, and sue for and collect all moneys due such district.

SEC. 3. There shall be levied and collected on all taxable property in each district, the sum of one mill on the dollar, also a head tax of three dollars on each able bodied man, between the ages of twenty-one and forty-five, residing in each district: *Provided*, That any person, liable to pay road tax, may work out such tax under the supervision of the supervisor of the district where such person resides, and shall be allowed for such work the sum of three dollars per day.

SEC. 4. The supervisor of each district shall make out a list of all persons in his district, who have been residents in such district thirty days, and file a copy of the same with the clerk of the board of county commissioners at the February term in each year, showing a full and concise statement of all labor performed, moneys received and paid out, and if a surplus of money shall remain after the payment of all road dues, the county commissioners shall place the same to the credit of the school fund.

SEC. 5. Any supervisor who shall fail to perform the duties required of him by this act, shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding five hundred dollars, before any court having competent jurisdiction.

SEC. 6. The compensation of a road supervisor shall be fixed by the board of county commissioners, and shall not exceed the sum of five dollars per day, payable out of the road fund.

SEC. 7. This act shall take effect and be in force from and after its passage.

Approved January 6, 1869.

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AN ACT to prevent the unlawful driving away of Cattle and other Stock by Drovers and others.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That any drover or other person or persons who shall drive off, or who shall knowingly or willingly suffer or per-

mit to be driven off from the premises of any citizen of said territory, or from the range on which the stock of any such citizen usually run, any horses, mules, neat cattle, hogs, sheep, or any stock belonging to such citizen, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding one hundred dollars, and be liable for all costs and damages, or by imprisonment in the county jail, not exceeding thirty days.

SEC. 2. Any justice of the peace in any county through which said stock shall pass, or in which it may be found, shall have jurisdiction of the offense: *Provided*, That conviction before one justice shall be a bar to any other prosecution for the same offense.

SEC. 3. That all moneys collected under the provisions of this act, shall be paid into the school fund of the county in which the offense is committed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

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AN ACT to amend an Act supplementary to an Act entitled "An Act amendatory of an Act entitled 'An Act regulating the holding of Elections in Montana Territory,'" approved November 22, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one of said act be so amended as to read as follows: "That nothing in an act entitled 'An Act to amend an act regulating the holding of elections in Montana territory,'" approved November 22, 1867, shall be so construed as to conflict with or abridge the rights of any person or persons enfranchised by a law of congress, approved January 24, 1867."

SEC. 2. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

## AN ACT concerning Stallions.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. If any stallion or stud horse, ridgling, or any unaltered male mule or jackass over the age of two years, be found running at large, the owner shall be fined for the first offense ten dollars, and for each subsequent offense not more than fifty nor less than twenty-five dollars, to be recovered by civil action, before a justice of the peace, in the name of any person who will prosecute for the same, one-half to his own use and the other half to the use of the county.

SEC. 2. Any person may take up any such horse, mule or jackass found running at large, and if not claimed in five days may castrate him, such castration being performed in the usual manner, so that the life of the animal be endangered as little as possible.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.

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AN ACT to regulate the Tolls on certain Stock over the Toll Road from Virginia City in Madison County to Sterling, in Hot Spring District.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That from and after the passage of this act, the tolls on certain stock over the toll road from Virginia city, in Madison county, to Sterling, in Hot Spring district, shall be as follows: For each pack animal, twenty-five cents; for each head of loose horses, cattle or mules, ten cents; for each head of sheep, goats or hogs, two and one-half cents.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

**AN ACT to declare the Military or Mullen road a Public Highway.**

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. All that portion of the military road known as the Mullen road from Fort Benton to the summit of the Cœur d'Alene mountains, be and the same is hereby declared a public highway ; and any person or persons collecting toll on the said Mullen road shall be deemed guilty of a misdemeanor, and on conviction before any court of competent jurisdiction, shall be fined in any sum not less than twenty-five nor more than one hundred dollars, and be adjudged to pay all costs of prosecution.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

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**AN ACT establishing the County of Dawson, defining the Boundaries, and locating the County Seat thereof.**

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That all that part of Montana territory embraced within the following boundaries, be and the same is hereby created a county, to be known as Dawson county, to wit : Commencing at the intersecting point of parallel of latitude forty-seven degrees, with meridian of longitude one hundred and eight degrees, and thence along said parallel forty-seven degrees to meridian of longitude one hundred and four degrees, and from thence along said meridian north to forty-ninth parallel of latitude, and from thence along said parallel forty-nine degrees to meridian of longitude one hundred and eight degrees, and from thence south along said meridian to place of beginning.

SEC. 2. That it shall be the duty of the governor to appoint suitable persons to fill the county officers for said county, who shall qualify and hold their respective offices until the general election in eighteen hundred and sixty-nine.

SEC. 3. The county seat of said county of Dawson is hereby

located at Fort Peck. That the county of Dawson shall be attached to the county of Choteau for council and representative purposes.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to amend an Act entitled "An Act authorizing the County Commissioners of Missoula County to levy Tax for Bridge purposes," approved December second, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one of an act authorizing the county commissioners of Missoula county to levy a special tax for bridge purposes, approved December second, 1867, be so amended as to read: "The county commissioners of Missoula county shall, at the time other taxes are levied, levy a tax, not less than five nor more than ten mills on the dollar, upon all property in their county liable to taxation for the purpose of completing the payments on the bridge over the Hell Gate river, near the town of Missoula.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 22, 1868.

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AN ACT authorizing the levying of a Special Tax in Deer Lodge County.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That Granville Stuart, Allen Hardenbrook, and Robert Kelley, of Deer Lodge, are hereby constituted a board of special commissioners for the purpose of levying a special tax, not to exceed \_\_\_\_\_ the dollar, upon all property in said



county, liable to taxation, both real and personal, for the purpose of paying the debt now due and owing by said county, for the construction of the court house in Deer Lodge city.

SEC. 2. The tax provided in the preceding section, shall be levied from the assessment roll of the year A. D. 1869, and it is hereby made the duty of the county treasurer to collect said tax, at the same time and in the same manner as other taxes are collected, and he shall receive the same per centage for such collection.

SEC. 3. The tax collected by the provisions of this act shall be paid out by the county treasurer, upon the order of the said special commissioners, which order shall be signed by at least two members of said board.

SEC. 4. In case any surplus funds remain, after defraying the cost of the construction of the court house, such funds shall be placed to the credit of the county fund.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT entitled An Act for the relief of Hot Spring School District, Madison County.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. Whereas, in the apportioning of the School fund of Madison county in November, 1868, Hot Spring district of said county failed to receive its proper portion of said fund ; and whereas, it appears that the same is justly due said district, therefore the county superintendent of said county is hereby authorized, and it is hereby made his duty, to allow in the next apportionment for said county in May, 1869, in addition to what is then due said district, the amount which said district should have received in November, 1868, had the proper apportionment been made for said district according to law.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 22, 1868.

AN ACT to repeal an Act entitled "An Act providing for holding regular Terms of the Probate Court of Deer Lodge County at Phillipsburgh in said County."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. The act entitled "An Act providing for holding regular terms of the probate court of Deer Lodge county," approved December 23, A. D. 1867, be and the same is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved December 16, 1868.

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AN ACT to amend an Act entitled "An Act to define the boundary line of Deer Lodge, Beaver Head and Madison Counties," approved December 23, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the northern and north-western boundary of Madison county be, and the same is established as follows, to wit: "Commencing at the Beaver Head rock, on Beaver Head river, thence in a north-westerly direction to the nearest point on Big Hole river; thence up said river to the mouth of Camp creek, thence up Camp creek, and its right hand fork, to its source, thence to the summit of Table mountain; thence in a direct line to Parson's bridge on Jefferson river.

SEC. 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 12, 1869.

AN ACT to amend; an Act entitled "An Act to locate the Seat of Government in and for the territory of Montana," passed January 24, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the seat of government in and for the territory of Montana, be, and the same is hereby located at the "town of Helena, Lewis and Clark county, Montana territory."

SEC. 2. That the question of locating the seat of government in and for Montana territory, shall be submitted to a vote of the qualified voters of the territory, at the annual election to be holden on the first Monday of August, A. D. 1869.

SEC. 3. If a majority of all the votes cast shall designate the town of Helena as the seat of government, it shall be by proclamation of the governor so declared, or if a majority so voting shall designate the City of Virginia, Madison county, Montana territory, the governor by his proclamation shall so declare it, and the place having a majority of the votes cast, shall be the seat of government.

SEC. 4. The ballot shall be headed, For the seat of government, Montana territory, and the elector shall write or cause to be written or printed, under said caption, the name of the place he desires to vote for.

SEC. 5. That all acts or parts of acts in any way conflicting with the provisions of this act, be and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 2, 1869.

AN ACT to amend and supplementary to an Act entitled "An Act to amend an Act entitled 'An Act to locate the Seat of Government in and for the Territory of Montana,' " approved January 2, 1869.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. If a majority of all the votes cast shall designate the town of Helena as the seat of government of Montana territory, it shall be, by proclamation of the governor of Montana territory, so declared.

SEC. 2. The ballots shall be headed, For seat of government of Montana territory at Helena, or Against seat of government of Montana territory at Helena ; and if a majority of all the votes cast in Montana territory designate Helena as the seat of government, then within thirty days after the election, or sooner, if all the votes are returned, it is hereby made the duty of the governor by proclamation to declare Helena the seat of government of Montana territory.

SEC. 3. That the votes cast on the question of the location of the seat of government of Montana territory shall be canvassed in the same manner and by the same persons, and returned in the same form and in the same way, as the votes cast for delegate to Congress.

SEC. 4. That the same penalty shall be incurred for fraudulently voting on the question of location of the seat of government of Montana territory under the provisions of this act, as is incurred for fraudulently voting for any candidate under the election laws of Montana territory.

SEC. 5. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

AN ACT authorizing the repeal of an Act to incorporate the City of Virginia, approved December 30, 1864.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That on the first Monday of January, A. D. 1870, the question of repealing the act incorporating the city of Virginia, approved December 30, 1864, shall be submitted to the qualified voters of said city, and if a majority of the qualified voters be in favor of the repeal of said act, the same shall be from thenceforward null and void, and of no effect, but if a majority of the votes cast at said election be against the repeal of said act, the same shall remain in full force and effect.

SEC. 2. That the election laws now in force in said city under the charter and ordinances thereof, shall govern and control the election upon this question, and the vote canvassed under said election laws, and the result of the same shall be announced by a proclamation of the mayor.

SEC. 3. That until said question of repeal is determined as aforesaid, there shall be no further election for city officers under and by virtue of the charter and ordinances of said city, and that the present city officers shall hold their offices under said charter until the question of repeal be determined as aforesaid, unless vacancies occur by reason of death or otherwise; in case a vacancy shall occur in the office of councilman, the same shall be filled by the mayor; in case any vacancy occur in any other office, the same shall be filled by the mayor and council of said city.

SEC. 4. If the act aforesaid be not repealed at the election provided for by this act, then the same shall continue in force, and all offices shall be filled in the manner and at the time now provided by said charter, and act amendatory thereof, and the ordinances thereunder.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved January 12, 1869.

AN ACT to authorize the citizens of Jefferson County to change the County Seat of said County.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the legal voters of Jefferson county at the next general election shall have the right to change their county seat, and the place receiving the highest number of legal votes shall thereafter be the county seat of said county.

SEC. 2. That it shall be the duty of all county officers of Jefferson county to remove to and hold their offices at such place as may be chosen, as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT requiring the County Commissioners of Deer Lodge County to pay D. P. Newcomer for labor performed, and money expended for the benefit of said County.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. The county commissioners of Deer Lodge county are hereby required to pay to D. P. Newcomer, clerk of the second judicial district court, of, in and for the county of Deer Lodge, the sum of five hundred dollars, money expended by said D. P. Newcomer in the purchase of books, etc., for the benefit of said court, and for work and labor performed by said D. P. Newcomer in transcribing the records of said district court in said books.

SEC. 2. That in the event the said county commissioners refuse or neglect to pay the said D. P. Newcomer, as required in section one of this act, the said D. P. Newcomer may bring suit against the said county commissioners for the amount specified in a preceding section of this act.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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AN ACT to legalize the District Records of Jefferson County.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That the county commissioners in and for Jefferson county are hereby authorized and empowered to examine the county district records, as copied into a record book, and indexed F, D, the letter "F" being the order in which the books are lettered, the letter "D" denoting it as a district record ; and if a majority of said board of county commissioners shall declare the same as correctly copied, they shall be considered the legal records of said district.

SEC. 2. That these records shall be considered and taken as evidence in any court in this territory.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 11, 1869.

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AN ACT to change the Name of the Town of Farmington.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

SECTION 1. That the name of the town of Farmington, the county seat of Gallatin county, be and the same is hereby changed to that of Bozeman City.

SEC. 2. All acts or parts of acts conflicting with this act be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7, 1869.

AN ACT for the relief of the Masonic Fraternity of Virginia City.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the real property of the masonic fraternity of Virginia City, consisting of the lot, and the building erected thereon, known as the "Masonic Temple," in said city, shall not be subject to taxation either for territorial or county purposes, from and after the date of the passage of this act.

SEC. 2. That the territorial and county treasurer of Madison county be and they are hereby authorized to remit the tax levied upon the real property of said masonic fraternity for the past year, as released by enactment of the legislative assembly of the territory of Montana.

SEC. 3. All acts and parts of acts conflicting with this, be and the same are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 31, 1868.

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AN ACT to amend an Act entitled "An Act to incorporate the town of Montana, in Beaver Head County, Montana Territory, and to change the name thereof."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section 1 be amended as follows: That the names of the following persons be added to the names of the corporators in said act: I. A. Brown, C. Bray, C. S. Ream, A. K. Eaton, George Brown, D. H. Hopkins, E. D. Leavitt, A. J. Smith, E. F. Phelps, B. S. Peabody, and W. W. De Lacy.

SEC. 2. That the word "Montana," be stricken out wherever it occurs in said act, and that the word "Argenta" be inserted therein.

SEC. 3. *Provided, however,* That nothing herein contained shall in any wise interfere with, or invalidate any individual rights, interests or titles acquired in said town prior to the passage of this act.

SEC. 4. This act to take effect and be in force from and after its passage.

Approved December 30, 1868.



AN ACT to repeal an Act to re-enact an Act to incorporate the El Dorado and Diamond City Wagon Road Company, and other purposes, approved December 20, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the above entitled act is hereby repealed.

SEC. 2. That the act entitled "An Act to incorporate the El Dorado and Diamond City Wagon Road Company," passed April 12, 1866, is hereby repealed; that said road is hereby declared a free road, open for the use and travel of the people of the territory.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved December 15, 1868.

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AN ACT for the relief of Addison Smith, County Treasurer of Deer Lodge County.

Whereas, under the provisions of an act of the legislative assembly of the territory of Montana, approved November 22, 1867, providing for the funding of the indebtedness of the several counties of Montana territory; and whereas, the county commissioners of Deer Lodge county made an order calling in all the outstanding indebtedness of said county up to the date of said order, to wit: the — day of February, A. D. 1868, and forbidding the treasurer of said county from paying any such indebtedness; and whereas, an action was commenced against said treasurer, by one of the creditors of said county, to compel such payments, and an order of court had in said action, the payment thereof, and that said treasurer has, in defending said action, been subjected to a large expense; and whereas, pursuant to said order of said board of county commissioners, said treasurer has paid a large amount of the warrants of said county, issued subsequent to said order of said board, to wit: the sum of one thousand seven hundred dollars, and is now in danger of being compelled to

repay said last named sum on said indebtedness, existing prior to said order of said board; therefore

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. The sum of seven hundred dollars is hereby appropriated to Addison Smith, treasurer of Deer Lodge county, out of any money or moneys in the territorial treasury not otherwise appropriated.

SEC. 2. The territorial auditor is hereby directed to draw his warrant on the territorial treasurer, in favor of said Smith, for the said sum of seven hundred dollars.

SEC. 3. The act of said treasurer of said county, pursuant to the order of said board of commissioners, in paying said warrants, issued subsequent to said order, is hereby declared legal and valid.

SEC. 4. The acts of said treasurer of said county, in paying the cash orders of said board of county commissioners, to defray the current expenses of said county, to provide fuel, lights, stationery, etc., for said county, are hereby declared legal and valid.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved January 14, 1869.

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AN ACT to provide for the Compensation of William Berkins for Services rendered the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. There shall be, and is hereby appropriated out of the territorial treasury, the sum of seven hundred and thirty-three dollars and eighty-four cents to William Berkins, for money expended and time employed in the pursuit of Charles Williamson and Joseph Powell, of Jefferson county, charged with the crime of grand larceny.

SEC. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum named in the first section of this act, in favor of William

Berkins, which shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 15, 1869.

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JOINT MEMORIAL to Congress, praying for an Appropriation by the Congress of the United States, for the establishment of a Branch Mint in the Territory of Montana.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled :*

We, your memorialists, the council and house of representatives of the territory of Montana, in legislative assembly convened, would most respectfully but earnestly represent to your honorable body, that during the last five years this country has produced and thrown into the channels of commerce, immense quantities of the precious metals, gradually increasing from year to year, until, in the year 1867, according to the most reliable statistics, gold dust and bullion to the amount of twenty-four millions dollars in coin, have been produced, and it is confidently expected that the yield of the present year, 1868, will greatly exceed that of 1867, and that the cost of transportation of gold dust and bullion in bars, together with the difference in the cost of assaying, between private individuals and the United States, amounts to eight per cent. of the product of our mines, thereby entailing an annual expense on our citizens of upwards of one million and a half of dollars, which would be obviated by the establishment of a branch mint at some convenient point in our territory.

Your memorialists would also most respectfully represent to your honorable body, that, owing to the application of capital and machinery, now being resorted to by our citizens, for the working of our placer mines, the annual yield of gold from this source will not decrease during the next ten years.

In addition to this, which has been the principal source of our wealth in the past, the development and successful working of our rich and valuable gold and silver bearing lodes, will, in the future, largely increase our yield of the precious metals. There are now in our territory fifty mills for the reduction of ores; most of them are in operation, the balance are in course of erection, or undergoing repairs.

Your memorialists would also most respectfully represent, that besides the large amount of the precious metals contained in our lodes, copper, lead and all the materials used in coining money, are contained in our territory in great abundance.

Your memorialists, therefore, believing that it would be greatly to the advantage of the people of Montana, as well as to the interests of the people of the United States generally, most respectfully request that your honorable body will take such steps as will insure the establishment of a branch mint in the territory of Montana at an early day; and your memorialists will, as in duty bound, ever feel grateful.

Approved December 31, 1868.

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### JOINT MEMORIAL.

*To the Honorable the Senate and House of Representatives in Congress assembled:*

Your memorialists, the legislative assembly of the territory of Montana, would most respectfully represent:

*First.* That the national road leading from Fort Benton to the navigable waters of the Columbia, through neglect, has become impassable for wagons for nearly one hundred and fifty miles, embracing all that portion from French town in Missoula county, across the Cœur d'Alene mountains in Idaho territory; that the line road, surveyed and laid out by Lieut. Mullen, crosses in its ascent of the Cœur d'Alene mountains on the eastern slope, the St. Regis Borgie river some forty-seven times, and that said road, in its ascent of the western slope of said moun-

tain, crosses the Cœur d'Alene river some forty-five times, and that the bridges, with but few exceptions, have been swept away, rendering these streams entirely impassable during the spring and early summer, at a time when our people are most in need of necessities, not attainable from the East at that early season of the year.

*Second.* That it has been estimated by competent engineers, and others acquainted with the cost of constructing mountain roads, that not more than seventy-five thousand dollars (\$75,000) would be required if judiciously expended, to put said national wagon road in good condition for vehicles of any and all descriptions.

*Third.* In the opinion of your memorialists an appropriation of seventy-five thousand dollars, expended under the supervision of some person interested in the welfare of our territory, would be ample for the above purpose, and when the road shall be so opened, the enterprise of our people now settling along the whole line, would be sufficient to keep the same in good repair, without further assistance from the general government for all time to come. Thus, the appropriation named in this memorial to open this so much needed great national highway at an early period, we your memorialists will, as in duty bound, ever pray.

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JOINT MEMORIAL, asking the Congress of the United States to Amend the Organic Act of the Territory of Montana.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the legislative assembly of the territory of Montana, would most respectfully represent to your honorable body, that, by an act of congress, approved July 20, 1868, biennial sessions of the legislature of Montana are only provided for, and that section four of the organic act of our territory, provides that members of the house of representatives shall hold their office for the term of one year.

Your memorialists would, therefore, most respectfully request, that section 4 of said organic act be so amended as to accord with provisions of the act of congress above referred to, thereby enabling a future legislature to provide for biennial elections, which would save expenses to the various counties of the territory, as well as to the general industry of the country; and your memorialists will, as in duty bound, ever pray.

Approved January 15, 1869.

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*To the Honorable Senate and House of Representatives of the United States of America in Congress assembled:*

Your memorialists, the fifth legislative assembly of the territory of Montana, respectfully show to your honorable body, that in the latter part of the year eighteen hundred and sixty-six, and in the spring of eighteen hundred and sixty-seven, the war department of the United States incurred a debt in this territory in furnishing subsistence, etc., to a volunteer army called out, pursuant to orders of said department, to repel the savages from the valley of the Gallatin, and protect the citizens of that region.

And your memorialists further represent, that the fourth legislative assembly of the territory of Montana did memorialize your honorable body, asking that this debt might be paid, and caused to be transmitted with said memorial, statements, etc., showing all the particulars thereof.

Your memorialists are not informed whether any action has ever been taken upon said memorial by your honorable body, and avail themselves of this means of requesting your earnest attention to the same, and of asking for an appropriation sufficient to cover said indebtedness at as early a day as possible.

Approved January 11, 1869.

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MEMORIAL to Congress asking for the establishment of a Military Road, and an appropriation therefor.

*To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled :*

Your memorialists, the legislative assembly of the territory of Montana, would most earnestly represent, that the interests of the territory would be greatly enhanced, its settlement promoted, and the transportation of military supplies greatly facilitated, by the construction of a military road from the mouth of the Muscleshell, on the Missouri, to the South Fork of the same; thence up the South Fork and across the Belt Range to Fort Ellis on the Gallatin.

Your memorialists most respectfully request that said road may be constructed, and that an appropriation of twenty thousand dollars be made for the construction of said road.

Trusting that you will give the subject of this memorial your earliest and most earnest attention,

Your memorialists will, as in duty bound, ever pray.

Approved December 31, 1868.

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COUNCIL JOINT MEMORIAL, No. 2.

*To the Honorable Congress of the United States :*

Your memorialists, the council and house of the legislative assembly of the territory of Montana, would earnestly petition your honorable bodies composing the congress, for a sufficient sum of money, adequate for a geological survey of this growing territory, of acknowledged mineral wealth, equal to any other portion of the United States possessions, for its medicinal springs, gold and silver deposits, coal, iron, and copper, marble and precious stones, which will greatly add to the riches of scientific research of the United States, by such geological exploration, besides aiding and assisting the indomitable energies of our inhabitants in swelling the great torrent of precious metals, falling into the channels of commerce, as your memorialists will ever petition.

Approved January 15, 1869.

**MEMORIAL** praying for a Treaty with the Crow Indians, protecting the Rights of the citizens of Montana in the Valley of the Yellow Stone.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled :*

Your memorialists, the legislative assembly of the territory of Montana, would earnestly represent, that citizens of the territory of Montana, in the Yellow Stone Valley, have acquired rights under the laws of the United States and the territory of Montana, as pioneers of this mountain region, long before a treaty was made by the government of the United States with the Crow nation of Indians, whereby said portion of territory was set apart as a reservation for these aborigines, and therefore we, your petitioners, the legislative assembly of the territory of Montana, in order to save bloodshed and protect the lawful rights and privileges of that portion of the citizens of this territory, would earnestly ask of the treaty-making power of the United States, that the treaty by which that portion of this territory was assigned as a reservation to the Crow nation be revised so as to protect the rights and privileges of that portion of our inhabitants, as it is a historical fact, that the portion so assigned is neutral Indian territory, and that there is a sufficient Indian territory belonging to said Crow nation, other than the territory mentioned.

Approved January 11, 1869.

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**JOINT MEMORIAL** to the Congress of the United States, praying for the Removal of the Flat Head Indians from the Bitter Root Valley in the County of Missoula to their reservation on the Iocko.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

We, your memorialists, the legislative assembly of the territory of Montana, would respectfully represent, that all that portion of Missoula county known as the Bitter Root Valley, contains several hundreds of industrious white settlers, who are engaged in agri-



culture, manufacturing and mining ; that from year to year they have made valuable and substantial improvements, until such improvements exceed in value the property of all other portions of said county ; that there are at this time about three hundred and fifty of the Flat Head tribe of Indians residing in said valley ; that their habits and customs are so different from those of the whites, it is found to be impossible for the two races to live on amicable terms ; therefore, we, your memorialists, would respectfully memorialize your honorable body, that a commissioner be appointed to treat with said Indians for their removal to the reservation provided for them in the Iocko Valley.

Approved January 11, 1869.

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HOUSE JOINT MEMORIAL. No. 7.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the council and house of representatives of the territory of Montana, would most respectfully represent to your honorable body, the great necessity of the construction of a government military road, from some point on the Union Pacific Railroad, at or near Box Elder, in Utah territory, to Helena City, in Montana territory.

Your memorialists would most earnestly represent, that the construction of the said road would be of great public benefit to all the people of the territories of Utah, Montana and Idaho. That it would be the most convenient road as an outlet to the railroad for all the towns in our territory, as it would necessarily run through the following towns in making a direct course to and from the point mentioned, via Bannack City, Argenta, Silver Bow, Deer Lodge and Blackfoot cities.

Your memorialists would further represent, that owing to the early completion of the Union Pacific Railroad, that the people of the territory will receive all their supplies from the East and West by the said road, and that there is now but toll roads by

which they can travel in going to and from said railroad, and that all of said roads are circuitous and indirect, and charge an enormous and extravagant rate of toll, and that there is no road now open that is as short, or that can be made as convenient to the people of this territory, as the one herein represented to your honorable body.

Your memorialists would humbly urge upon your honorable body immediate action upon the subject set forth in this memorial, as a measure of the greatest importance to the development of the mineral and agricultural resources of this country, and as an actual necessity to the people thereof.

As in duty bound, will ever pray, etc.

Approved January 14, 1869.

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*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:*

Your memorialists, the legislative assembly of the territory of Montana, respectfully represent, that there has been organized in this territory, a society known as the Historical Society of the territory of Montana; that the society, being organized for the purpose of preserving such historical incidents as are worthy of preservation, and generally for the advancement of literature in this territory; that the said society is greatly in need of means for the purpose of maintaining its organization, and the carrying out of the beneficial designs of its inception.

Your memorialists, understanding it to be the custom of the general government to foster such institutions in the several territories, would respectfully request your honorable body to appropriate for the relief of said society the sum of three thousand dollars.

And your memorialists will ever pray, etc.

Approved January 15, 1869,

## HOUSE JOINT RESOLUTION.

*Resolved by the House, the Council concurring,* That the sum of two thousand dollars be and the same is hereby appropriated from the territorial treasury, out of any money not otherwise appropriated, to build a suitable magazine and arsenal, for the territorial arms now in the city of Helena. That the governor is hereby authorized to contract for the building of the same, in or near Helena, provided no expense incurred in the matter whatever shall exceed the foregoing appropriation. The territorial auditor is hereby authorized to draw his warrants on the treasurer for the above amount, whenever the governor shall certify to him that the said arsenal is constructed. That the governor be authorized to procure the services of a suitable person in Virginia, and of one in Helena, to take charge of, and keep in order the arms and ammunition at those places, provided that neither of said parties shall receive more than four hundred dollars per annum for each service; and the auditor is hereby directed to draw his warrants in favor of such parties, quarterly, to the extent of four hundred dollars each, per annum, upon the certificate of the governor that the services required in this act have been performed.

Approved January 15, 1869.

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SUBSTITUTE FOR HOUSE JOINT RESOLUTION, No. 5.

*Resolved by the House, the Council concurring,* That the territorial auditor be instructed to draw a warrant on the territorial treasurer for the sum of fifty dollars in favor of William Y. Lovell, for services rendered in copying revenue law, and in taking deposition of Messrs. Cummings and Carpenter before the committee on ways and means.

Approved January 14, 1869.

## HOUSE JOINT RESOLUTION, No. 11.

*Resolved by the House, the Council concurring,* That the secretary of the territory, when he has the laws of this session published, be and he is hereby authorized to cause the printed copies thereof to be published free of all errors in punctuation, orthography and grammatical construction, provided that the corrections made do not interfere with the legal construction of said laws.

Approved January 15, 1869.

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## HOUSE JOINT RESOLUTION, No. 9.

*Resolved by the House, the Council concurring,* That the house and council adjourn this day at 4 o'clock P. M. *sine die*.

Approved January 15, 1869.

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## COUNCIL JOINT RESOLUTION, No. 10.

*Resolved by the Council, the House concurring,* That the territorial auditor be required to issue his warrant in favor of Samuel B. Green for the sum of forty-eight dollars for three days services as assistant enrolling clerk of the council.

Approved January 15, 1869.

*Resolved by the House, the Council concurring,* That there be and there is hereby appropriated out of the territorial treasury, from any moneys not otherwise appropriated, the following amounts to the following named persons, for services in assisting the enrolling and engrossing clerks of the house of representatives: To I. Ostreicher sixty dollars, to J. Robinson twelve dollars, to E. Stark twelve dollars, to J. Murphy sixty dollars; and the auditor is hereby directed to draw his warrants on the treasurer for the above amounts. The auditor is further directed to draw his warrants on the treasurer for the following amounts: To A. H. Barrett and R. E. Arick, C. C. Menaugh and William R. Kirkwood, for one hundred dollars each for night service, in writing up the journals of the house.

Approved January 15, 1869.

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HOUSE JOINT RESOLUTION, No. 3.

*Resolved by the House, the Council concurring,* That there shall be appropriated out of the treasury of this territory the sum of five hundred and fifty-five  $55\frac{1}{2}$  dollars to Thomas B. Wade, for moneys expended and services rendered in selecting site, preparing deed, copying plot, and surveying ground, for the location of the territorial penitentiary, at Deer Lodge City, Montana territory, in obedience to the governor's instructions of February 19, 1868.

Approved January 13, 1869.

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*Resolved by the Legislative Council of the Territory of Montana, the House concurring,* That the sum of three hundred dollars be and the same is hereby appropriated for the payment of a demand yet due to John How for safe purchased for the use of the terri-

tory, and the auditor of the territory is hereby authorized and instructed to draw his warrant on the territorial treasurer, for said sum of three hundred dollars, and the said treasurer is hereby instructed to set aside the said sum, from any money which may come into the treasury, and pay said warrant therefrom.

Approved January 12, 1869.

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COUNCIL JOINT RESOLUTION, No. 4.

*Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House concurring,* That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of the following persons, to wit: two hundred and fifty-two dollars to Wood and Reynolds for storing territorial ordnance and ordnance stores from April 4, 1868, to January 4, 1869; two hundred and fifty dollars to Charles Curtis for taking care of and keeping in good condition territorial ordnance and ordnance stores; one hundred and fifty dollars to the Rev. L. Van Gorp, for rent of house for two months for the storage of territorial arms and ammunition; one hundred and fifty dollars to Neil Howie, for money expended for oil, emery, drayage, stove and pipe, etc.; ninety-nine dollars to R. S. Price, for moving arms and ammunition and for carpenter's work. Said amounts are hereby appropriated out of any money in the treasury not otherwise appropriated.

Approved January 14, 1869.

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JOINT RESOLUTION, No. 7.

*Resolved by the Legislative Assembly of the Territory of Montana,* That the territorial auditor be instructed to draw a warrant on the territorial treasurer for the sum of five hundred and fifty dollars in favor of Davis & Thoroughman for legal services rendered the territory, which sum the auditor recommends be allowed.

Approved January 12, 1869.

## COUNCIL JOINT RESOLUTION, No. 9.

*Be it resolved by the Legislative Assembly of Montana Territory,* That the territorial auditor is hereby authorized and directed to draw warrants on the territorial treasurer of Montana for the sum of two hundred and forty dollars, out of any moneys not otherwise appropriated; two hundred and forty dollars in favor of Isaac Ostreicher, and two hundred and forty dollars in favor of James Murphy, for services rendered as clerks, for joint committee appointed to examine the territorial treasurer and auditor's books.

Approved January 15, 1869.

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## COUNCIL JOINT RESOLUTION, No. 11.

*Resolved by the Council, the House concurring,* That the territorial auditor be requested to issue his warrant in favor of R. E. Haislip for the sum of two hundred dollars, for services rendered as post master.

Approved January 15, 1869.

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## COUNCIL JOINT RESOLUTION, No. 13.

*Resolved by the Council, the House concurring,* That the secretary be requested to furnish to the members and attaches of both houses of the assembly a copy of the laws and journal passed at this session as soon as convenient after printed.

Approved January 15, 1869.

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LAWS, MEMORIALS, AND RESOLUTIONS

OF THE

TERRITORY OF MONTANA.

PRINTED AT BUTTE

SIXTH SESSION

OF 1890

LEGISLATIVE ASSEMBLY,

MET AT HELENA CITY, MONDAY, DECEMBER 9, 1889, AND  
CONVEIENCED JANUARY 7, 1890.

TO WHICH ARE APPENDED

THE CONSTITUTION OF THE UNITED STATES,

AND THE ACTS ORGANIZING THE TERRITORY.

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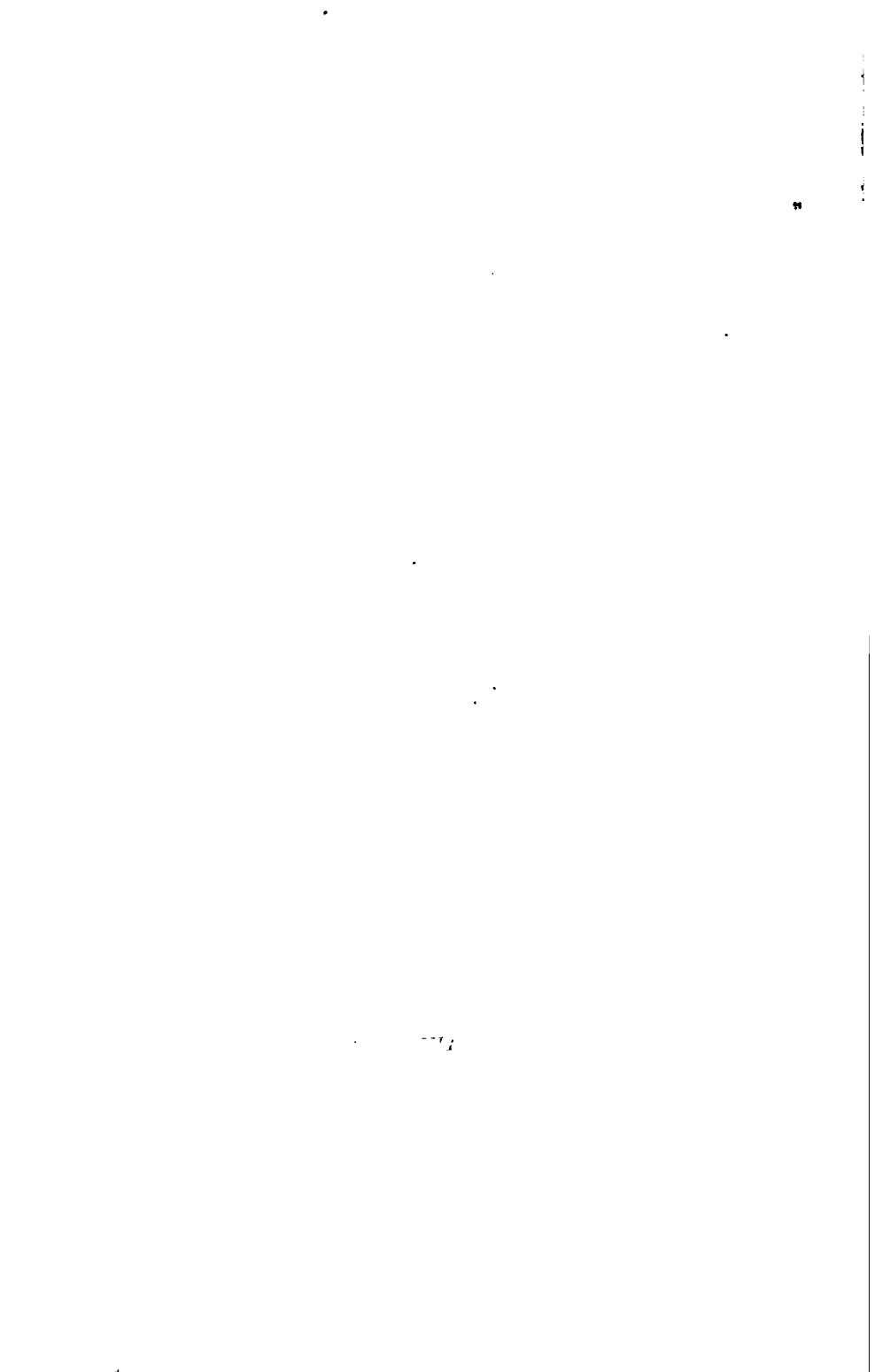
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**PASSED AT THE**  
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**PUBLISHED BY AUTHORITY.**

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**HERALD, HELENA, M. T.**  
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**1870.**

## AUTHENTICATION.

---

MONTANA TERRITORY, }  
*Secretary's Office, Virginia City.* }

I, W. S. SCRIBNER, Secretary of Montana Territory, do hereby certify that I have delivered to Robert E. Fisk, Public Printer, true and correct copies of all the Laws, Joint Resolutions, and Memorials, now on file in my office, and passed at the sixth session of the Legislative Assembly of the Territory of Montana, begun and held at Virginia City, the Capital of said Territory, on the sixth day of December, in the year of our Lord one thousand eight hundred and sixty-nine.

In Testimony Whereof, I have hereunto set my hand and affixed the great seal of the Territory of Montana. Done at Virginia City, this [L. s.] sixth day of March, in the year of our Lord one thousand eight hundred and seventy.

W. S. SCRIBNER,  
*Secretary of Montana Territory.*

---

HERALD OFFICE, HELENA, M. T., }  
May 28th, 1870. }

I hereby certify, that the General and Private Laws, Memorials, and Joint Resolutions herein contained, are true and correct copies of those delivered to me by the Secretary, as stated in the preceding authentication.

ROBERT E. FISK,  
*Public Printer.*

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### ERRATA.

On p. 72, in the eleventh line, read *Hell Gate* instead of "Hell Gage."

On p. 91, in the title of an act to amend an act entitled "An Act defining the council and representative districts of the territory of Montana," read *apportioning* instead of "appointing."

On p. 95, in the last line of Section 2, read *repealed* instead of "approved."

On p. 98, after the first word in Section 3, insert the word *it*; so that said first line will read — "That *it* is hereby made the duty of the county."

On p. 105, in the third line of Section 1, read *January* 12th, 1869, instead of "February" 12th, 1869.

On p. 109, in the third line of Section 8, between the words "be" and "visit," insert the word *to*, so as to read — "be to visit."

On p. 110, after the word "same," in the third line in Section 12, add the words, *and may*.

In both journals, on the page of "Federal Officers"—the first in the book—for the "Judiciary," 3d District, *G. G. Symes*, instead of "G. G. Lymes."

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tions, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused to assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature — a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise; the state remaining in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others, to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others, to subject us to a jurisdiction, foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation —

For quartering large bodies of armed troops among us;

For protecting them by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states;

For cutting off our trade with all parts of the world;

For imposing taxes on us, without our consent;

For depriving us, in many cases, of the benefits of trial by jury;

For transporting us beyond seas, to be tried for pretended offenses;

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies;

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments;

For suspending our own legislature, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarce-

ly paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undisputed destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts, by their legislature, to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity; and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connection and correspondence. They, too, have been deaf to the voice of justice, and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all

other acts and things which independent states may of right do And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members :—

JOHN HANCOCK.

*New Hampshire.*

JOSIAH BARTLETT,  
WILLIAM WHIPPLE,  
MATTHEW THORNTON.

*Massachusetts Bay.*

SAMUEL ADAMS,  
JOHN ADAMS,  
ROBERT TREAT PAINE,  
ELBRIDGE GERRY.

*Rhode Island, etc.*

STEPHEN HOPKINS,  
WILLIAM ELLERY.

*Connecticut.*

ROGER SHERMAN,  
SAMUEL HUNTINGTON,  
WILLIAM WILLIAMS,  
OLIVER WOLCOTT.

*New York.*

WILLIAM FLOYD,  
PHILIP LIVINGSTON,  
FRANCIS LEWIS,  
LEWIS MORRIS.

*New Jersey.*

RICHARD STOCKTON,  
JOHN WITHERSPOON,  
FRANCIS HOPKINSON,  
JOHN HEART,  
ABRAHAM CLARK.

*Maryland.*

SAMUEL CHASE,  
WILLIAM PACA,  
THOMAS STONE,  
CHAS. CARROLL, of Carrollton.

*Pennsylvania.*

ROBERT MORRIS,  
BENJAMIN RUSH,  
BENJAMIN FRANKLIN,  
JOHN MORTON,  
GEORGE CLYMER,  
JAMES SMITH,  
GEORGE TAYLOR,  
JAMES WILSON,  
GEORGE ROSS.

*Delaware.*

CÆSAR RODNEY,  
GEORGE READ,  
THOMAS M'KEAN.

*Virginia.*

GEORGE WYTHE,  
HICHARD HENRY LEE,  
THOMAS JEFFERSON,  
BENJAMIN HARRISON,  
THOMAS NELSON, JR.,  
FRANCIS LIGHTFOOT LEE,  
CARTER BRAXTON.

*North Carolina.*

WILLIAM HOOPER,  
JOSEPH HEWES,  
JOHN PENN.

*South Carolina.*

EDWARD RUTLEDGE,  
THOMAS HAYWARD, JR.,  
THOMAS LYNCH, JR.,  
ARTHUR MIDDLETON.

*Georgia.*

BUTTON GWINETT,  
LYMAN HALL,  
GEORGE WALTON.

CONSTITUTION  
OF THE  
UNITED STATES OF AMERICA.

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WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the

congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.



The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid

out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him,

shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The congress shall have power —

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasion;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively

the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money;

emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

#### ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows: —

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[\* The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be

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\*Annulled. See 12th amendment.

counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballott one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation : —

"I do solemnly swear (*or affirm*), that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority ; — to all cases affecting ambassadors, other public ministers, and consuls ; — to all cases of admiralty and maritime jurisdiction ; — to controversies to which the United States shall be a party ; — to controversies between two or more states ; — [\*between a state and citizens of another state ; —] between citizens of different states ; — between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachments, shall be by jury ; and such trials shall be held in the state where the said crimes shall have been committed ; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

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\*Annulled. See 11th Amendment.



The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

#### ARTICLE IV.

SECTION 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

## ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

A M E N D M E N T S

TO THE

CONSTITUTION OF THE UNITED STATES.

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ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

## ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States, than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

## ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; — the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next follow-

ing, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

#### ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XIV.

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged,

except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

SEC. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4 The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV.

SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ORGANIC ACT  
OF THE  
TERRITORY OF MONTANA.

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(PUBLIC, No. 76.)

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AN ACT to provide a temporary government for the Territory of Montana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington, with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward along the crest of said Bitter Root mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree of long-



itude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby created into a temporary government by the name of the territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such time as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana, shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offenses against the laws of said territory, and reprieve for offenses against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all of-

ficers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly

as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to

become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

SEC. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return; in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be

appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

SEC. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace, shall not have jurisdiction of any matter in controversy

when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases, the same fees which the clerks of the district courts of Washington territory now receive for similar services.

SEC. 10. *And be it further enacted,* That there shall be appointed an attorney for said territory, who shall continue in office

four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be re-

ceived and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each, per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from said sessions, estimated according to the nearest usually traveled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative



assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor, to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from

the several other territories of the United States to the said house of representatives ; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct ; and at all subsequent elections the time, and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Montana territory as elsewhere within the United States.

SEC. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him ; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement,

shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

SEC. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

SEC. 18. *And be it further enacted*, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,  
WASHINGTON, May 28, 1864. }

A true copy :

W. H. HUNTER,  
*Chief Clerk.*

(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the territory of Montana," approved May 26, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing and other industrial pursuits.

SEC. 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided,* That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes; *And provided further,* That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

SEC. 3. *And be it further enacted,* That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

SEC. 4. *And be it further enacted,* That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

SEC. 5. *And be it further enacted,* That for the purpose of reviving the legislative functions of the territory of Montana,

which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby authorized on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the Organic Act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof, begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall be the same as that prescribed by said Organic Act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly, so elected, shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as will enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

SEC. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory: *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the elec-

tion of the legislative assembly herein provided for shall take place.

SEC. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

SEC. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.



# LAWS OF MONTANA.

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AN ACT to amend an act entitled "An Act relative to elections, approved January 17, 1865."

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That in addition to the duties already assigned them, it shall be the duty of the board of county commissioners of each county to cause to be provided for the several election precincts in each county, poll books, after the forms hereinafter prescribed.

SEC. 2. That it shall be the duty of the clerk of said board to deliver to the sheriff of the county two copies of said blanks, to be furnished to the judges of each precinct at the same time the notices are served on said judges, as provided in section five (5) of the act, which this act is amendatory.

SEC. 3. The judge having the key, shall keep it in his own possession and deliver it again to the board at the next opening of the polls, and the person having the care of the box, shall carefully keep it without opening it, or suffer it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll books taken out, and the box again locked. That the judges having the custody of the key, box, and poll books, who shall refuse or neglect to comply with the requirements of this section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five hundred dollars, or more than ten thousand dollars, together with imprisonment not less than three months or more than one year, or by such fine and imprisonment as a court of competent jurisdiction may see fit to impose.



SEC. 4. Such poll books and oaths shall be in the following form : —

TERRITORY OF MONTANA, } ss.  
County of —.

We, — and —, do solemnly swear that we will perform the duty of judges of the election according to law, and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, so help me God.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ } *Judges.*

Subscribed and sworn to before me —, this — day of  
—, A. D. 187—.

TERRITORY OF MONTANA, } ss.  
County of \_\_\_\_.

We, — and —, do solemnly swear that we will faithfully perform the duties of clerks of the election, according to law and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, so help us God.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ } *Clerks.*

Subscribed and sworn to before me, this — day of —,  
187—.

POLL BOOKS OF PRECINCT NO. \_\_\_\_.

NO.	NAMES.	NO.	NAMES.

At an election held at ———, in precinct No. ———, in the county of ———, in the territory of Montana, the following named persons received the number of votes annexed to their respective names, for the following offices; to-wit:—

Certified to by us,

_____	_____	} <i>Judges.</i>
_____	_____	
_____	_____	
_____	_____	} <i>Clerks.</i>
_____	_____	
_____	_____	

SECTION 5. It is hereby made the duty of the sheriff, at the time he delivers the poll books, as provided in section two (2) of this act, to administer the oath, as prescribed by section three (3) of this act, to at least one of the judges of the election, and such judge may administer the oath to the other judges and clerks of such elections. In case such judges fail to serve at such election, either of the other judges may administer such oath.

SEC. 6. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 7. This to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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#### AN ACT concerning Licenses.

*Be it enacted by the legislative assembly of the territory of Montana :—*

SECTION 1. There shall be levied and collected by the tax collector, a license tax, as follows: *First*, from each billiard table kept for public use, ten dollars per quarter; *second*, from the

manager or lessee of every theater, five dollars per day, or thirty dollars per month; and for each exhibition of opera or concert singers, minstrels, sleight-of-hand performers, legerdemain, and all other shows or exhibitions, the same as required for theatrical performances; *third*, all dance houses, or hurdy-gurdy houses, shall pay a license of ten dollars per day, or one hundred dollars per month; *fourth*, for each and every insurance company, agent, or agency transacting business in this territory, the sum of one hundred dollars per year, to be paid by the principal agent of the territory; *fifth*, each pawn-broker, twenty-five dollars per quarter; *sixth*, for each keeper of an intelligence office, ten dollars per quarter; *seventh*, from each assayer, fifteen dollars per quarter: *Provided*, They shall work for a compensation. Each professional man, before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum.

SEC. 2. All keepers of livery and feed stables shall pay a license of fifteen dollars per quarter; all keepers of hay yards, corrals for feeding stock, or selling hay, shall pay a license of eight dollars per quarter; and all herders, who keep or herd stock for hire, shall pay a license of ten dollars per quarter; ranchmen, whose receipts for herding stock exceed twenty dollars per month, shall pay the same license as herders; all keepers of liverys, who keep buggies, carriages, sleighs, and other vehicles, shall pay a license of two dollars and fifty cents for each and every vehicle per quarter, in addition to the fifteen dollars above provided.

SEC. 3. Every person keeping a bakery or confectionery, shall pay a license as follows: Those doing business amounting to two thousand dollars per month in the aggregate, shall pay a license of fifteen dollars per quarter; those doing business amounting to one thousand dollars, and not exceeding two thousand dollars per month, shall pay ten dollars per quarter; and all doing such business in an amount less than one thousand dollars per month, shall pay a license of six dollars per quarter; and all barbers shall pay a license of five dollars per quarter for each chair used.

SEC. 4. Any person, or persons, private association, incorporation, or companies, who shall sell foreign or inland bills of exchange, loan money at interest, buy notes, bonds, or other evidences of indebtedness, or shall buy gold dust, gold or silver bullion, or gold or silver coin, or keep savings banks, or engage as a common carrier in transmitting or carrying gold dust, gold or silver coin, or bullion, from one place to another, for hire or profit, or receive general or special deposits of gold dust, gold or silver coin, or bullion, or bank notes, shall procure a license before performing any act above enumerated, and shall pay therefor as follows: Those doing business to the amount of fifty thousand dollars or over per quarter, shall pay one hundred dollars per quarter; those doing business to the amount of forty thousand and under fifty thousand dollars per quarter, shall pay seventy-five dollars per quarter; those doing business to the amount of thirty thousand dollars and under forty thousand dollars per quarter, shall pay fifty dollars per quarter; those doing business to the amount of twenty thousand dollars and under thirty thousand dollars per quarter, shall pay thirty-five dollars per quarter; those doing business to the amount of ten thousand dollars and under twenty thousand dollars per quarter, shall pay twenty-five dollars per quarter; and all doing business, or engaged in such transactions in any amount under ten thousand dollars per quarter, shall pay fifteen dollars per quarter: *Provided*, That any person, or persons, selling goods or property other than money for gold dust, gold or silver coin, or bullion, shall not be required to procure a license under this section.

SEC. 5. Every person who has a fixed place of business, who may deal in goods, wares, or merchandise, wines or liquors, drugs or medicines, jewelry or wares of precious metals, or who shall expose the same for sale, shall pay a license as follows: Those whose sales are ten thousand dollars or more per month, shall constitute the first class, and shall pay a license of fifty dollars per quarter; those whose sales are five thousand dollars and under ten thousand dollars per month, shall constitute the second class, and shall pay a license of thirty dollars per quarter; those whose sales are two thousand and under five thousand dollars per month, shall constitute the third class, and shall pay a

license of twenty dollars per quarter ; and those whose sales are over one thousand and under two thousand dollars per month shall constitute the fourth class, and shall pay a license of fifteen dollars per quarter ; and those whose sales are one thousand dollars or under per month shall constitute the fifth class, and shall a license of ten dollars per quarter : *Provided*, That the sales of liquors or wines licensed under this section shall not be in less quantities than one gallon.

SEC. 6. All auctioneers shall procure a license, and shall pay therefor as follows : Those who shall sell or offer for sale cattle, horses, mules, or other live stock, upon the streets of any town or city containing two thousand or more inhabitants, shall pay twenty-five dollars per month ; and all auctioneers who sell at auction any such stock outside of any town or city, or in any town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter ; and auctioneers who shall sell property of any kind at public sale, in any place other than upon streets, as above specified, shall procure a license, and shall pay therefor as follows : All such auctioneers who shall so do business in any town or city containing two thousand or more inhabitants, shall pay ten dollars per month ; and all such auctioneers who shall so sell outside of any town or city, or in any town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter.

SEC. 7. All keepers of restaurants, boarding-houses, lodging-houses, and hotels shall pay a license as follows : Those doing business in the aggregate of less than one thousand dollars per quarter, shall pay five dollars per quarter, and all whose business is over one thousand dollars per quarter, shall pay five dollars for each additional one thousand dollars or fractional part thereof per quarter, and all such keepers of restaurants, boarding-houses, lodging houses, and hotels shall make at the end of each quarter a sworn statement of the total amount of their business for the quarter last preceding.

SEC. 8. All persons who dispose of any spirituous or malt liquors in quantities of less than one gallon shall, before the transacting of such business, obtain a license, for which he or they shall pay as follows : In any city, town, or village that con-

tains a population of three hundred persons or more, the license shall be thirty dollars per quarter; in any city, town, or village where the population is less than three hundred, and more than fifty, the license shall be fifteen dollars per quarter, and all persons who dispose of any spirituous or malt liquors in quantities of less than one gallon, outside of any town, city, or village, and no nearer than three miles to any town, city, or village, shall pay a license of eight dollars per quarter.

SEC. 9. That every traveling merchant, hawker, or peddler who shall carry a pack or trunk, and shall sell goods, wares, or merchandise, shall pay a license of eight dollars per quarter; and any traveling merchant, hawker, or peddler, who shall travel with a wagon or other vehicle, and shall sell goods, wares, or merchandise, or produce not raised in this territory, shall pay five dollars per month for each wagon so used; that for selling goods, wares, or merchandise, carried on pack animals, fifty cents for each pack or load so offered for sale.

SEC. 10. Every brewer or manufacturer of malt or spirituous liquors, or manufacturers of pop, beer, or drinks of any kind put up in bottles, shall pay a license as follows: Those whose business amounts to one thousand dollars or over per month shall constitute the first class, and shall pay a license of twenty dollars per month; and those whose business is under one thousand dollars per month shall constitute the second class, and pay a license of five dollars per month.

SEC. 11. Any person or persons who shall keep any banking game or other game of chance, or gaming table, wherein any money or representatives of money are used, bet, or ventured at any game of chance or hazard and not prohibited by the laws of this territory, shall pay a license of fifty dollars per month for each house so kept.

SEC. 12. Every butcher shall pay a license of seven dollars per month: *Provided*, That any butcher carrying on business more than two miles from any city, town, or village, or in any city, town, or village containing less than one hundred inhabitants, and whose monthly receipts are less than one thousand dollars, shall pay a license tax of ten dollars per quarter.

SEC. 13. Every keeper of a picture gallery, daguerreotypist, photographer, or other artist, shall pay a license of ten dollars per quarter.

SEC. 14. All incorporated roads, bridges, or ferries, or water companies, or any other incorporated company not specified in the provisions of this bill, or any other company or association, or persons taking or receiving toll, whose quarterly receipts reach the sum of five hundred dollars, shall pay a license tax of twenty dollars per quarter; those whose quarterly receipts shall not exceed five hundred dollars, shall pay a license tax of ten dollars per quarter; those whose quarterly receipts shall reach one thousand dollars, shall pay a license tax of forty dollars per quarter; those whose quarterly receipts shall reach two thousand dollars, shall pay a license tax of eighty dollars per quarter; those whose quarterly receipts shall reach five thousand dollars per quarter, shall pay a license tax of two hundred and fifty dollars per quarter; and those whose quarterly receipts reach ten thousand dollars, shall pay a license tax of five hundred dollars per quarter: *Provided*, That quartz mills and water ditches used for mining purposes be exempt from the provisions of this section.

SEC. 15. *Be it further enacted*, That it shall be the duty of any corporate or other company, receiving toll, to cause any president, secretary, chief officers, or directors of said company or companies, four times in each year, to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statement of all their receipts and expenditures. And it shall be the duty of said treasurer to examine said report, and he shall have power to hear testimony for and against the same, and if he approve of the same he shall proceed to collect the tax imposed by this act upon said company or corporation as provided by law in other cases. And if such owner, officer, or agent shall fail or refuse to make report as above required, it shall be the duty of said treasurer to estimate the receipts of such company, corporations, or person, according to his best knowledge and information, and proceed to collect license as provided in section fourteen of this act, and no abatement or diminution of said treasurer's estimate shall be made.

SEC. 16. That all male persons in this territory who are now, or who may hereafter be, engaged in the laundry business shall pay a license of fifteen dollars per quarter.

SEC. 17. Every person who shall carry on the lottery, or gift, or prize distribution business within this territory, shall pay five per cent on the amount of property so disposed of.

SEC. 18. Every keeper of a bowling-alley shall procure a license, and shall pay therefor the sum of five dollars per quarter for each alley so used.

SEC. 19. That any company having a line or lines of telegraph in the territory shall pay a license as follows: On every business office kept in any city, town, or village containing a population of three hundred persons and over shall pay a license of ten dollars per month; all other telegraph offices kept on roads or stations, where general business is transacted, shall pay a license of five dollars per month; said license to be procured in the counties where the said offices are established.

SEC. 20. Licenses may be granted under the provisions of this act for one year or less, at the option of the applicant: *Provided*, No license shall be granted for a less time than that mentioned in the rates of assessments of licenses in this act.

SEC. 21. Each tax collector shall make diligent inquiry and examination as to all persons in his county liable to pay license required in this act, and it shall be his duty to require each person to state under oath or affirmation, the amount of business which he or the firm of which he is a member, or for which he is the agent or attorney, or the association or corporation of which he is the president or officer, have done in the last preceding month or quarter, and also to make a statement under oath, if required, in order to carry out the provisions of this act, and thereupon such agent or other person shall procure a license for such month or quarter for the class of which such party is liable to pay, and in all cases where an under estimate has been made the applicant shall be made to pay double license for the next month or quarter. Such license shall authorize the party obtaining the same in his county to transact business as provided in such license: *Provided*, However that nothing in this act nor in any license issued under it shall be so construed as to authorize



any person to carry on any business without procuring such additional license as may be lawfully required by the laws of the United States, or of any incorporated city.

SEC. 22. For the purpose of enforcing the provisions of this act, and to prevent the evasion of the same, all property of every kind, held or used in any of the trades, occupations, or professions, for which a license is required by the provisions of this act, shall be liable for said license, and said license is hereby made a lien on all such property, which lien shall have precedence of any other lien, claim, or demand, and if any person or persons shall fail or refuse to procure the license required by this act, before the transaction of the business specified, it shall be the duty of the treasurer of the county to seize any of the property upon which a lien is hereby created, or any other property belonging to such person or persons, and sell the same in the manner provided for sheriffs on execution, to satisfy said license and costs; and for which said treasurer shall receive a like fee as sheriff for service of notice and sale on executions, or said treasurer may sue for and collect said license and cost by attachment, garnishment, or otherwise.

SEC. 23. If any treasurer shall fail or refuse to enforce the provisions of this act, as herein directed, he shall be liable, and shall pay double the amount of each and every license which he shall so fail to collect, together with all costs of suit, and it shall be the duty of the district attorney of the district in which such treasurer resides, upon complaint of any tax-payer in this territory, to prosecute such treasurer for the same.

SEC. 24. The act approved February the ninth, 1865, and the act approved December thirteenth (13th), 1867; and the act approved January fifteenth, 1869, and all acts and parts of acts conflicting with this act, be and the same are hereby repealed.

SEC. 25. This act to take effect and be in force from and after its passage.

Approved January 6th, 1870.

AN ACT to repeal an act entitled "An Act to protect and regulate the irrigation of lands in Montana territory," approved January 12th, 1865, and to make provisions for the construction of ditches and the irrigation of agricultural lands.

SECTION 1. That an act entitled "An Act to protect and regulate the irrigation of lands in Montana territory," approved January 12th, 1865, be and the same is hereby repealed.

SEC. 2. That any person or persons, corporation or company, who may have or hold a title, or possessory right or title, to any agricultural lands within the limits of this territory, as defined by the Organic Act thereof, shall be entitled to the use and enjoyment of the waters of the streams or creeks in said territory, for the purposes of irrigation and making said land available for agricultural purposes, to the full extent of the soil thereof.

SEC. 3. That when any person or persons, corporation, or company, owning or holding land, as provided in section two of this act, shall have no available water facilities upon the same, or whenever it may be necessary to raise the waters of said stream or creek to a sufficient height to so irrigate said land, or whenever such lands are too far removed from said stream or creek to so use the waters thereof as aforesaid, such person or persons, corporation, or company shall have the right of way through and over any tract or piece of land for the purposes of conducting and conveying said water by means of ditches, dykes, flumes, or canals, for the purpose aforesaid.

SEC. 4. That such right to so dig and construct ditches, dykes, flumes, and canals over and across the lands of another, shall only extend to so much digging, cutting, or excavations, as may be necessary for the purposes required.

SEC. 5. That in all controversies respecting the rights to water, under the provisions of this act, the same shall be determined by the date of the appropriation, as respectfully made by the parties.

SEC. 6. That the waters of the streams or creeks of the territory may be made available to the full extent of the capacity thereof, for irrigating purposes, without regard to deterioration in quality or diminution in quantity, so that the same do not materially affect or impair the rights of the prior appropriator,

but in no case shall the same be diverted or turned from the ditches or canals of such appropriator, so as to render the same unavailable.

SEC. 7. That any person or persons, corporation or company, damaging or injuring the lands or possessions of another, by reason of cutting or digging ditches or canals, or erecting flumes, as provided by section three of this act, the party so committing such injury or damage shall be liable to the party so injured therefor.

SEC. 8. That this act shall not be so construed as to impair or in any way or manner interfere with the rights of parties to the use of the water of such streams or creeks acquired before its passage.

SEC. 9. That this act shall not be so construed as to prevent or exclude the appropriators of the waters of the said streams or creeks for mining, manufacturing, or other beneficial purposes, and the right also to appropriate the same is hereby equally recognized and declared.

SEC. 10. That any person or persons, corporation, or company, who may dig and construct ditches, dykes, flumes, or canals, over or across any public roads or highways, or who use the waters of such ditches, dykes, flumes, or canals, shall be required to keep the same in good repair, at such crossings or other places where the water from any such ditches, dykes, flumes, or canals may flow over, or in any wise injure any roads or highways, either by bridging or otherwise.

SEC. 11. Any person or persons offending against section ten of this act, on conviction thereof, shall forfeit and pay for every such offence, a penalty of not less than twenty-five dollars nor more than one hundred dollars, to be recovered with costs of suit in civil action, in the name of the territory of Montana, before any court having jurisdiction; one half of the fine so collected shall be paid into the county treasury for the benefit of the common schools of the county in which the offence was committed; and the other half shall be paid to the person or persons informing the nearest magistrate that such offence has been committed. All such fines and costs shall be collected without stay of execution, and such defendant or defendants may, by order of the

court, be confined in the county jail until such fine and costs shall have been paid.

SEC. 12. This act to be in force and take effect from and after its approval by the governor.

[NOTE FROM THE SECRETARY. — The foregoing having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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**AN ACT** authorizing the Board of County Commissioners of the county of Madison to subscribe and take stock for said county in the Capital Ditch Company.

SECTION 1. That the board of county commissioners of the county of Madison, in the territory of Montana, at any time within one year from the passage of this act, be and the same are hereby authorized and fully empowered to subscribe and take capital stock for said county to the amount of fifteen thousand dollars, subject, however, to the provisions of section two of this act, in the Capital Ditch Company, a body corporate and politic, organized under the general incorporation act of the territory, entitled "An Act to provide for the formation of corporations for certain purposes," approved December 13th, 1867, and an act amendatory thereto, approved January 6th, 1869.

SEC. 2. That the board of county commissioners of the county of Madison are hereby authorized and empowered for said county to subscribe and take capital stock in the said Capital Ditch Company in said county, not exceeding the amount of fifteen thousand dollars, and subject to the express provisions of this section of the act; the sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to said Capital Ditch Company, and expended

the said amount of money on said ditch, and completed the first fifteen miles of said ditch; and may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed other ten miles of said ditch; and, lastly, may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed an additional ten miles of said ditch, making altogether thirty-five miles of said ditch.

SEC. 3. That said board of county commissioners are hereby authorized and empowered to issue bonds, with coupons, to the said Capital Ditch Company for the amount of stock subscribed, not exceeding the sum of fifteen thousand dollars, redeemable at the pleasure of the county of Madison, after two years, and payable in eight years from date, bearing interest at the rate of twelve per cent per annum, payable annually; which said bonds and coupons shall be signed by the chairman of the board of county commissioners, and countersigned by the county clerk of said county of Madison; and the said bonds herein authorized shall be of any denomination not less than fifty dollars nor more than five hundred dollars each, at the discretion of the board of county commissioners.

SEC. 4. No bonds and coupons issued under authority of this act shall be issued by said board of county commissioners to said Capital Ditch Company for the amount of stock subscribed by the said county commissioners, for said county of Madison, for less than par value.

SEC. 5. The board of county commissioners of the county of Madison may appoint and empower an agent to represent the county, to subscribe or transfer its stock, give its vote, and receive its dividend (if any), and such agent to be changed at pleasure.

SEC. 6. That the board of county commissioners of said county of Madison shall set aside not more than two mills on the dollar on all the taxable property of said county for the payment of the bonds and coupons issued under the provisions of this act; and shall, out of said contingent fund, pay annually the

coupons or interest due on said bonds, and the remainder of the money on hand shall be subject to the order, discretion, or control of said board of county commissioners, as they shall deem prudent and expedient: *Provided, however*, That no money collected under the provisions of this act shall be appropriated or applied by the said board of county commissioners to any other purpose than for the payment of the bonds and coupons issued under this act: *And provided further*, That the charges, costs, or expenses to accrue, if any, of carrying into effect any of the provisions of this act shall be paid by the board of county commissioners out of the contingent fund mentioned in this act.

SEC. 7. That the special election held in the several voting precincts in the county of Madison, on the 23d day of November, A. D. 1869, at which a majority of the legal votes cast at said election were in favor of the said county to subscribe and take capital stock in the Capital Ditch Company to the amount of fifteen thousand dollars; and the acts and proceedings of said board of county commissioners of said county, in submitting the question of said county to subscribe and take stock in said Capital Ditch Company to the amount of fifteen thousand dollars, to the ratification or rejection of the qualified voters of the said county, voting at said special election, and all acts and proceedings of said board of county commissioners in relation therewith, and the said election be, and the same are hereby legalized, to all intents and purposes, and shall have the same binding force in all courts and places whatsoever, as if the same had been done and submitted according to law.

SEC. 8. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

the said amount of money on said ditch, and co-  
fifteen miles of said ditch; and may subscribe th  
five thousand dollars when the said Capital Ditch  
have subscribed and collected, as capital stock  
tal Ditch Company, and completed other to  
ditch; and, lastly, may subscribe the further  
sand dollars when the said Capital Ditch Co  
subscribed and collected, as capital stock to  
Ditch Company, and completed an additional  
ditch, making altogether thirty-five miles of

SEC. 3. That said board of county commi-  
authorized and empowered to issue bonds, w  
said Capital Ditch Company for the amount  
not exceeding the sum of fifteen thousand  
at the pleasure of the county of Madison, a  
payable in eight years from date, bearing int  
twelve per cent per annum, payable annuall  
and coupons shall be signed by the chair  
county commissioners, and countersigned by  
said county of Madison; and the said bon  
shall be of any denomination not less than  
than five hundred dollars each, at the discre  
county commissioners.

SEC. 4. No bonds and coupons issued t  
act shall be issued by said board of county  
Capital Ditch Company for the amount  
the said county commissioners, for said  
less than par value.

SEC. 5. The board of county commiss  
Madison may appoint and empower an  
county, to subscribe or transfer its stock  
ceive its dividend (if any), and such a  
pleasure.

SEC. 6. That the board of county  
county of Madison shall set aside not  
the dollar on all the taxable property of  
ment of the bonds and coupons issued  
this act; and shall, out of said continge

ted or imprisoned in civil pro-  
three years. An action upon  
merchandise sold and delivered,  
promise, not above enumerated,  
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g for extra compensation to the Secretary  
t Montana.

*Assembly of the Territory of Mon-*

entitled "An Act to provide extra  
ity of Montana," approved December  
ated.

in force from and after

ith his objections.

The vote by  
the question,



"Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-third vote of the house.

IN COUNCIL.—Vote by which the bill was passed by the council was reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a unanimous vote of the council.

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AN ACT supplemental to an act entitled "An Act to provide for the funding of the debt of Montana Territory," approved Dec. 3, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. The territorial treasurer is hereby authorized and directed, immediately after the passage of this act, to apply such money or moneys as may be in the territorial treasury, belonging to the sinking fund, provided for by law and set apart and appropriated for the redemption of bonds and payment of coupons, to the payment according to law of such bonds as he may be able to liquidate before they fall due, observing strictly the provisions of section ten of the act to which this is supplemental, approved December 3, 1867: *Provided*, That no interest upon bonds so liquidated shall be paid beyond the date of their liquidation.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

## AN ACT relating to the Killing of Game.

*Be it enacted by the Legislative Assembly of the Territory of Montana: —*

SECTION 1. That any person or persons who shall willfully shoot or otherwise kill, or cause to be killed, any grouse, prairie chicken, pheasant, fool-hen, partridge, or quail between the first day of March and the fifteenth day of August of each year, shall be deemed guilty of a misdemeanor, and upon conviction before any justice of the peace having competent jurisdiction, be fined in a sum not less than five dollars, nor more than thirty dollars for each offence committed.

SEC. 2. For the next three years from the first of July, 1870, it shall be unlawful for any person willfully to kill or destroy, in any manner whatever, any partridge or quail within the territory, and upon conviction before any justice of the peace, shall be fined in any sum not less than thirty nor more than one hundred dollars for each offence committed.

SEC. 3. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to repeal Sections Three and Ten of an act entitled "An Act relating to the Discovery and Possessory Right of all Placer Mines."

*Be it enacted by the Legislative Assembly of the Territory of Montana: —*

SECTION 1. That sections three and ten (10), one (1), two (2), four (4), five (5), six (6), seven (7), nine (9), and eleven (11) of an act entitled "An Act relating to the discovery and possessory

right of all placer mines," approved December 11th, 1867, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to repeal Section Four of an act entitled "An Act to promote the Agricultural, Mechanical, and Mineral Interest of Montana Territory," approved December 24th, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That so much of section four (4) of an act entitled "An Act to promote the agricultural, mechanical, and mineral interest of Montana territory," approved December 24th, 1867, as requires the association to pay annually into the treasury of the territory a license of one hundred dollars, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

Approved December 23d, 1869.

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AN ACT to amend an act entitled "An Act concerning Licenses," approved January 15th, 1869.

*Be it enacted by the Legislative Assembly of the Territory of Montana, as follows : —*

SECTION 1. That there shall be levied and collected by the tax collector a license tax as follows : For each and every in-

insurance company, the sum of one hundred dollars per annum, to be paid by the principal agent of the territory.

SEC. 2. That all act and parts of act in conflict with this act be and the same are hereby repealed.

SEC. 3. That this act take effect and be in force from and after its passage.

Approved January 7th, 1870.

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AN ACT to repeal an act entitled "An Act to incorporate the Madison River Ditch Company."

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That an act entitled "An Act to incorporate the Madison River Ditch Company," approved January 24th, A. D. 1865, be and the same is hereby repealed.

SEC. 2. That this act take effect and be in force from and after its passage and approval.

Approved.

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AN ACT to amend an act entitled "An Act to amend an act entitled 'An Act relative to the Pre-emption of Town Sites upon Public Lands, and the disposal of Trusts created thereby,' approved December 12th, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That section three (3) be amended so as to read as follows; to-wit: That the residue of lots in the possession of the corporate authorities, or probate judge, as the case may be, and unclaimed after the expiration of sixty (60) days, it shall be the duty of the probate judge, or corporate authorities, as the case may be, to post up notices, or cause the same to be done, in at least four public places in the county in which such town site is located, at least ten days before sale, that he will offer and

sell at public sale all of, or so many as he may think proper, of the lots that may remain unclaimed at the time advertised; and that all lots, having been thus advertised and offered for sale, not bringing at least the minimum price as set forth in an act of which this is amendatory, shall be subject, at any time thereafter, to private entry at the minimum price.

SEC. 2. All act and parts of acts in conflict with this act be, and the same are hereby repealed.

SEC. 3. That this act take effect and be in force from and after its passage.

Approved January 6th, 1870.

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AN ACT to amend an act entitled "An Act relating to Counties and County Officers," approved February 9th, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. That section one of article eight of "An Act relating to counties and county officers," approved February 9th, 1865, be amended so as to read as follows: "A county assessor shall be elected in each county at the general election, who shall give bond with two or more sufficient sureties in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties, according to law and to the satisfaction of the board of county commissioners; and shall subscribe an oath for the faithful performance of his duties as such assessor, and shall be a qualified elector of said county; and shall hold his office for one year, and until his successor be elected and qualified."

SEC. 2. That it shall be the duty of the board of county commissioners of each county, as soon as practicable after the passage of this act, to require the county assessor to comply with the provisions of this act.

SEC. 3. That this act shall be in force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of this territory, has become a law without his approval.]

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AN ACT to amend an act amendatory of an act entitled "An Act relating to Counties and County Officers," approved January 11th, 1869.

*Be it enacted by the Legislative Assembly of the Territory of Montana: —*

SECTION 1. That section two of an act entitled "An Act amendatory to an act entitled 'An Act relating to counties and county officers,'" approved February 9th, 1865, be amended to read as follows: "If a surplus of the contingent fund set aside in section one of the act to which this is amendatory, remain, said surplus fund shall be paid out on registered warrants, as other county funds, at the expiration of each quarterly settlement."

SEC. 2. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT legalizing certain acts of the County Treasurer of Gallatin County, in the payment of certain moneys.

*Be it enacted by the Legislative Assembly of the Territory of Montana: —*

SECTION 1. That all moneys paid out of the county treasury of Gallatin county, by the treasurer of said county, on the order of the county commissioners of said county, during the year A. D. 1869, be and is hereby declared valid.

the said amount of money on said ditch, and completed the first fifteen miles of said ditch; and may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed other ten miles of said ditch; and, lastly, may subscribe the further sum of five thousand dollars when the said Capital Ditch Company shall have subscribed and collected, as capital stock to the said Capital Ditch Company, and completed an additional ten miles of said ditch, making altogether thirty-five miles of said ditch.

SEC. 3. That said board of county commissioners are hereby authorized and empowered to issue bonds, with coupons, to the said Capital Ditch Company for the amount of stock subscribed, not exceeding the sum of fifteen thousand dollars, redeemable at the pleasure of the county of Madison, after two years, and payable in eight years from date, bearing interest at the rate of twelve per cent per annum, payable annually; which said bonds and coupons shall be signed by the chairman of the board of county commissioners, and countersigned by the county clerk of said county of Madison; and the said bonds herein authorized shall be of any denomination not less than fifty dollars nor more than five hundred dollars each, at the discretion of the board of county commissioners.

SEC. 4. No bonds and coupons issued under authority of this act shall be issued by said board of county commissioners to said Capital Ditch Company for the amount of stock subscribed by the said county commissioners, for said county of Madison, for less than par value.

SEC. 5. The board of county commissioners of the county of Madison may appoint and empower an agent to represent the county, to subscribe or transfer its stock, give its vote, and receive its dividend (if any), and such agent to be changed at pleasure.

SEC. 6. That the board of county commissioners of said county of Madison shall set aside not more than two mills on the dollar on all the taxable property of said county for the payment of the bonds and coupons issued under the provisions of this act; and shall, out of said contingent fund, pay annually the

coupons or interest due on said bonds, and the remainder of the money on hand shall be subject to the order, discretion, or control of said board of county commissioners, as they shall deem prudent and expedient: *Provided, however*, That no money collected under the provisions of this act shall be appropriated or applied by the said board of county commissioners to any other purpose than for the payment of the bonds and coupons issued under this act: *And provided further*, That the charges, costs, or expenses to accrue, if any, of carrying into effect any of the provisions of this act shall be paid by the board of county commissioners out of the contingent fund mentioned in this act.

SEC. 7. That the special election held in the several voting precincts in the county of Madison, on the 23d day of November, A. D. 1869, at which a majority of the legal votes cast at said election were in favor of the said county to subscribe and take capital stock in the Capital Ditch Company to the amount of fifteen thousand dollars; and the acts and proceedings of said board of county commissioners of said county, in submitting the question of said county to subscribe and take stock in said Capital Ditch Company to the amount of fifteen thousand dollars, to the ratification or rejection of the qualified voters of the said county, voting at said special election, and all acts and proceedings of said board of county commissioners in relation therewith, and the said election be, and the same are hereby legalized, to all intents and purposes, and shall have the same binding force in all courts and places whatsoever, as if the same had been done and submitted according to law.

SEC. 8. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]



AN ACT to amend Section Eight (8) of an act entitled "An Act concerning limitations, approved February 9, 1865."

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. That section eight of an act entitled "An Act concerning limitations," approved February 9, 1865, be and the same is hereby amended so as to read as follows: "SECTION 8. Actions, other than those for the recovery of real property, as follows: an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, when it shall appear from the record thereof that the defendant has been personally served with process, or has appeared to the action upon which such judgment or decree was rendered, shall be commenced within ten years, an action upon any contract, obligation, or liability, founded upon an instrument of writing (except those mentioned in the preceding section) shall be commenced within ten years; an action for waste or trespass upon real property; an action upon a liability created by a statute other than a penalty or forfeiture; an action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property; an action for relief, on the ground of fraud: *Provided*, That the cause of action in the last mentioned case shall not be deemed to have accrued until the discovery by the aggrieved party of the fact constituting the fraud, shall be commenced within three years. An action against a sheriff, coroner, or constable upon the liability incurred by the doing of any act in his official capacity, and in virtue of his office, or by the omission of an official duty, shall be commenced within two years. An action upon an account or other contract, obligation, or liability not grounded upon an instrument of writing, shall be commenced within five years. An action upon a statute for a penalty or forfeiture, when the action is given to an individual or to an individual and the territory, except where the statute imposing it prescribes a different limitation, shall be commenced within two years. An action for libel, slander, assault, battery or false imprisonment, shall be commenced within two years. An action against a sheriff or other officer,

for the escape of a prisoner arrested or imprisoned in civil process, shall be commenced within three years. An action upon an account for goods, wares, or merchandise sold and delivered, and upon any express or implied promise, not above enumerated, shall be commenced within five years."

SEC. 2. That nothing in this act shall be so construed as to revive any demand of whatever nature or character created outside of this territory, the collection of or right of action upon which has been barred by the act of the legislative assembly, to which this is amendatory, and amendatory acts in relation thereto passed prior to this date.

SEC. 3. That all act and parts of act in conflict with this act be and the same is hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory has become a law without his approval.]

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AN ACT to repeal an act providing for extra compensation to the Secretary of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. That an act entitled "An Act to provide extra compensation to the secretary of Montana," approved December the 24th, 1867, is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

December 28th, returned by the governor with his objections. Objections spread on the journal immediately. The vote by which the bill was passed was reconsidered, and on the question,

assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act to amend an act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, 1867.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That section one hundred and sixty-five, article two, of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, A. D. 1867, be and the same is hereby repealed, and the following substituted therefor: "SECTION 165. When in the trial of any cause, civil or criminal, the evidence is concluded, and before the case is argued or submitted to the jury, or to the court sitting as a jury, either party may move the court to give instructions on any point of law arising in the cause, which shall be in writing, and shall be given or refused, the court may of its own motion give like instructions."

SEC. 2. That nothing in section one hundred and twenty-five of chapter four, of the act to which this is amendatory, shall be so construed as to require any sheriff, or other person, or officer having in charge the execution of any order or writ of attachment, or execution, to post any notice of the levy of the same upon any quartz claim, lode, or ledge, levied on or attached in pursuance of the commands of any such writ.

SEC. 3. That in all cases where such officer or other person shall make a levy as aforesaid, upon any of the property specified in the foregoing section, it shall be his duty to make a complete list or inventory of all such property levied on by him, and file the same in the office of the county clerk of the county in which said property is located, and from and after the filing thereof the levy thereon shall be perfected, and from the time of filing the same shall impart notice of such levy, and shall remain a lien on the property so levied on.

SEC. 4. It shall be the duty of the county recorder to file and safely keep such list in his office, subject to the inspection of all

persons, and such clerk shall receive a fee of twenty-five cents for such filing and safe keeping of said list, to be paid by the plaintiff in the action, and taxed and allowed to him as other costs and disbursements in the action.

SEC. 5. A summons shall be executed, except as otherwise provided by law, either: *first*, by reading the writ to the defendant and delivering to him a copy of the complaint; or, *second*, by delivering to him a copy of the complaint and writ; or, *third*, by leaving a copy of the complaint and writ at his usual place of abode, with some member of his family over the age of fifteen years; or, *fourth*, where there are several defendants, by delivering to the defendant who shall be first summoned a copy of the complaint and writ, and to such as shall be subsequently summoned, a copy of the writ; or, by leaving such copy at the usual place of abode of the defendant, with some member of his family over the age of fifteen years. If the suit be against a corporation, service shall be had by delivering a copy of the complaint and writ to the president, or other head of the corporation, secretary, cashier, or managing agent thereof. If the suit be against a foreign corporation, or a non-resident, joint stock company, or association doing business within this territory, by delivering a copy of the complaint and writ to an agent, cashier, or secretary thereof. If the writ be against a minor under the age of fourteen years, by delivering a copy of the complaint and writ to such minor personally, and also to his father, mother, or guardian, or if there be none in the territory, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed. If the writ be against a person judicially declared to be of unsound mind or incapable of conducting his own affairs, and for whom a guardian has been appointed, by delivering copies of complaint and writ to such guardian.

SEC. 6. That so much of section twenty-nine of title three, of the act to which this is amendatory, as conflicts with this act, be and the same is hereby repealed.

SEC. 7. That section twelve of an act to amend an act entitled "An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, be so amended as to read as follows: "SECTION 12. That before issuing the writ of attachment, the clerk of the court shall

require a written undertaking on the part of the plaintiff to be filed in a sum not less than double the amount claimed by the plaintiff, with sufficient sureties, to be approved by the clerk, to the effect that if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not to exceed the sum specified in the undertaking; said sureties may be required to justify before the clerk of the court, to the effect that each for himself is worth the amount specified in the undertaking, over and above his debts and liabilities, and property by law exempt from execution, in the territory of Montana."

SEC. 8. That sections four hundred and three, four hundred and four, four hundred and five, and four hundred and six, of chapter five; and sections four hundred and seven, four hundred and eight, four hundred and nine, four hundred and ten, and four hundred and eleven, of chapter six, of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved December 23, 1867, and that section seventeen of an act to amend an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of Montana territory," approved January 15, 1869, be and the same are hereby repealed.

SEC. 9. The testimony of a witness out of the territory may be taken by deposition, in an action, at any time after the service of the summons or the appearance of the defendant, and in special proceedings, at any time after a question of fact has arisen therein.

SEC. 10. When the witness resides out of this territory, the party desiring his testimony may sue out of the court in which the suit is pending, or out of the office of the clerk thereof, a commission to take the deposition of the witness, and when the witness resides out of the territory and the suit is pending before a justice of the peace, the party desiring his testimony may sue out of a court of record, of the county in which the suit is pending, or out of the office of the clerk thereof, a commission to take the deposition of a witness.

SEC. 11. Depositions may be taken by some one of the following officers: *First*, if taken within this territory, by some

judge, justice of the peace, notary public, mayor, or chief officer of a city or town having a seal of office, or clerk of the district court; *second*, if taken without this territory, by some officer out of the territory, appointed by authority of the laws of this territory to take depositions, or by some consul, or commercial or diplomatic representative of the United States, having a seal, or mayor, or chief officer of any city, town, or borough, having a seal of office, or by some judge, justice of the peace, or other judicial officer, or by some notary public, within the government where the witness may be found.

SEC. 12. The commission shall be under the seal of the court, and shall be directed to any officer herein authorized to take depositions, within the government wherein the witness may be.

SEC. 13. The commission shall authorize such officer to cause to come before him such person or persons as shall be named to him by the party suing for the same, and shall command such officer to examine such person touching his knowledge of anything relating to the matter in controversy, and to reduce such examination to writing, and return the same, annexed to the commission, to the court wherein, or the justice before whom, the action is pending, with all convenient speed.

SEC. 14. When the witness may be found in this territory the deposition may be taken by the proper officer thereof, without any commission or order from any court or clerk.

SEC. 15. Depositions may be taken by any officer appointed out of this territory, by authority of the laws of this territory, to take depositions, without any commission or order from any court or clerk.

SEC. 16. In all cases where depositions shall be taken by virtue of any of the preceding sections of this law, the party at whose instance the same shall be taken shall cause notice in writing, of the time and place of taking such depositions, to be served on the adverse party or his attorney in the case.

SEC. 17. If neither the adverse party or his attorney in the cause reside in the territory, causing such notice to be put up in the office of the clerk of the court wherein such suit is pending shall be a sufficient notice.

SEC. 18. Such notice, when served on the adverse party, or his attorney, shall be, *first*, by delivering to him a copy thereof; *second*, by leaving a copy of such notice at his usual place of

abode, with some member of his family above the age of fifteen years, or at his office, with some clerk above the age of fifteen years.

SEC. 19. The service of any notice required by this act may be by any sheriff, marshal, constable, or by any competent witness who shall make affidavit to such service.

SEC. 20. In all cases where notice is required by this law, the same shall be served at least three days before the day of taking of the depositions, and one day additional for every twenty-five miles, for the first three hundred miles; and beyond that, one additional day for each one hundred miles of distance from the place of serving or setting up such notice to the place of taking the depositions, except as otherwise provided in the next succeeding section.

SEC. 21. When it is desired to take depositions out of this territory, to be read in suits pending in any of the courts of this territory, the court in which any suit is pending, or the judge thereof, in vacation, may shorten the time for which notice is to be given, as now required, upon such application of the party desiring it, with due notice of such application to the opposite party, or his attorney; and notice of taking depositions, given for such time as shall be designated by the court or judge, shall, in all such cases, be sufficient.

SEC. 22. When a party to any suit pending in any court of record in this territory shall make application to such court in term time, or to the judge thereof, in vacation, for a commission to take the examination of witnesses, and shall support the application by affidavits, and shall have given to the adverse party reasonable notice of such application, the court or judge may, upon such terms as it may think proper, award such commission.

SEC. 23. The commission shall be to such person as the court or judge shall appoint, to be named in the commission, or to some proper officer of the government where the witnesses may be, commanding such person or officers to examine such witnesses (naming them) upon interrogatories.

SEC. 24. The interrogatories shall be annexed to the commission, and shall be drawn and signed by the parties or their counsel in the cause, under the sanction and direction of the court or judge thereof.

**SEC. 25.** The commission shall further command the person or officer to whom the same is directed to reduce the examination of the witnesses and their answers to the interrogatories annexed to writing, and return the same with the commission into the court with all convenient speed.

**SEC. 26.** Such person or officer shall examine the witnesses named in the commission, touching the matters contained in the interrogatories annexed, and none others, at any time and place, when and where such witnesses may be found.

**SEC. 27.** Every witness examined in pursuance of this law shall be sworn or affirmed to testify the whole truth, and his examination shall be reduced to writing in the presence of the person or officer before whom the same shall be taken.

**SEC. 28.** Every person, judge, or other officer in this territory required to take the depositions or examination of witnesses in pursuance of this law, or by virtue of any commission issuing out of any court of record in this or any other government, shall have power to issue subpoenas for witnesses to appear and testify, and to compel their attendance in the same manner and under the like penalties as any court of record of this territory.

**SEC. 29.** To every deposition or examination taken by virtue of this law shall be appended the certificate of the person or officer by or before whom the same shall be taken, showing that the deposition or examination was reduced to writing in his presence, and was subscribed and sworn to by the witnesses, and the place at which, and the day, and within the hours, when the same was taken.

**SEC. 30.** Depositions or examinations taken by any person or officer in this territory authorized by this act, or by any person or officer out of this territory, appointed by authority of the laws of this territory to take depositions, or by any consul, commercial or diplomatic representative of the United States, or mayor, or chief officer of any city, town, or borough, having a seal of office; or by any notary public, and certified to by such person or officer, in his official character, and accompanied by his seal of office, if there be one, shall, to all intents and purposes, be sufficient evidence of the authentication of such depositions or examinations.



SEC. 31. The official character of such officer taking depositions or examinations within any of the United States, or in the District of Columbia, authenticated and proved as aforesaid, or by the certificate and seal of the clerk of any court of record within any county of the state or territory, or within the district where such officer resides; and certifying, also, that such officer was an acting judge or justice of the peace, and duly commissioned as such at the time when the depositions were taken, shall be a sufficient authentication thereof. Depositions or examinations taken by any person or judicial officer without the United States by virtue of any commission issued in pursuance of this law, shall be, except as herein otherwise provided, accompanied by a certificate of the official character of said officer, attested by the seal of state, or seal of court, of the government in which the depositions or examinations were taken.

SEC. 32. When the party causing depositions to be taken under a notice shall have completed the taking thereof, the adverse party may, before the same officer, and at the same place, proceed immediately, or on the next day, to take any depositions he may desire to have read in the cause, at said place and between the hours specified in the notice, until he shall have taken all that he desires; but, in order thereto, he shall, before or during the time of the taking of the depositions, on behalf of the other party, or the attorney representing him, give notice of his intention to do so.

SEC. 33. Depositions or examinations taken by virtue of any of the provisions of this law, and all exhibits produced to the person or officer taking such examinations or depositions, and proved or referred to by any witness, together with the commissions and interrogatories (if any), shall be enclosed, sealed up, and directed to the clerk of the court in which, or the justice before whom, the action is pending.

SEC. 34. Examinations or depositions taken and returned in conformity to the provisions of this law, may be read and be used as evidence in the cause in which they shall have been taken, as if the witnesses were present and examined in open court on the trial thereof: *First*, if the witness reside or is gone out of this territory; *second*, if he be dead; *third*, if, by reason

of age, sickness, or bodily infirmity, he be unable to, or cannot safely, attend the court; *fourth*, if he resides at a greater distance than forty miles from the place of trial; *fifth*, if he be gone to a greater distance than forty miles from the place of trial, without the consent or collusion of the party requiring his testimony; *sixth*, if he be a judge of a court of records, and engaged in the discharge of his official duties at the time.

SEC. 35. When the officer taking depositions in virtue of this law shall, in his certificate, state the place of residence of the witness, such statement shall be *prima facie* evidence of the facts.

SEC. 36. Every objection to the competency or credibility of a witness examined, or to the competency or relevancy of any question put to him, or of any answer given by him, may be made in the same manner and with the like effect as if such witness was personally present; and any failure to make such objections at the taking of the depositions, although the objecting party may be present, shall not prejudice his right to make such objections at the trial of the cause.

SEC. 37. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 38. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act to prevent officers from dealing in certain securities," approved February 2, A. D. 1865.

*Be it enacted by the legislative assembly of the territory of Montana:—*

SECTION 1. That section one of "An Act to prevent officers from dealing in certain securities," approved February 2, 1865

be so amended as to read as follows: "SECTION 1. The territorial treasurer and auditor, and the several district, county, city, or town corporation officers in the territory, are hereby expressly prohibited from purchasing or selling, directly or indirectly, or in any manner receiving to their use and benefit, or to the use and benefit of any person or persons whatever, any territory, county, or town, or city warrants, scrip, orders, demands, claim or claims, or other evidence of indebtedness against the territory, or county, or any city or town thereof."

SEC. 2. That section four of said act be so amended as to read as follows: "SECTION 4. All public officers herein referred to shall have the right to sell or transfer any evidences of public indebtedness which may be issued according to law, and held by such officers for services rendered by them to the territory, county, or town corporation, legally and justly due, and that the remaining portion of said section four of said act, approved February 2, 1865, be and the same is hereby repealed."

SEC. 3. Any officer, or agent, or employe, of any officer who shall be guilty of any violation of any of the provisions of this act shall, on conviction, be punished by a fine of not less than five hundred dollars, and shall be imprisoned in the territorial prison not less than two months. Such conviction shall operate as a forfeiture of office, and it shall be, and is hereby made, the duty of all judges in this territory to give this act specially in charge to the grand jurors at each term of their respective courts, and, also to all trial juries impanelled for the trial of any of the officers hereinbefore mentioned in this act.

SEC. 4. That all fines collected under and required by the provisions of this act, to be paid into the county treasuries, shall be so paid in for the benefit of the common school fund.

SEC. 5. All acts and parts of acts conflicting with this act be and are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

Approved December 22d, 1869.

AN ACT to provide for the appointment of Notaries Public, and to prescribe their duties.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. The governor may appoint and commission one or more notaries public in each organized county of the territory, who may respectively hold their offices three years, unless sooner removed by the governor.

SEC. 2. Each notary is invested with the power and shall perform the duties which pertain to that office, by the custom and law of merchants.

SEC. 3. Every notary public is required to keep a true record of all notices given or sent by him, with the time and manner in which the same were given or sent, and the names of all the parties to whom the same were given or sent, with a copy of the instrument in relation to which the notice is served, and of the notice itself.

SEC. 4. Such records and copies of them, authenticated by the hand and seal of the notary, his protests, and all his official acts as notary, and his seal, shall reserve such credit and faith as they are entitled to by the law and custom of merchants.

SEC. 5. Each notary public is required to have a seal, on which are to be engraved the words, "Notarial Seal," and "Montana," with his surname at length, and at least the initials of his Christian name.

SEC. 6. Notaries public are empowered to administer oaths, and to take acknowledgments and proof of deeds required or permitted by the law of this territory to be recorded or acknowledged.

SEC. 7. On the death, resignation, or removal from office of any notary, his records, with all his official papers, shall, within three months therefrom, be deposited in the office of the clerk of the county court, in the county for which such notary shall have been appointed; and if a notary, on his resignation or removal, neglect for three months so to deposit them, he shall be held guilty of a misdemeanor, and be punished accordingly, and be liable in an action to any person injured by such neglect; and if

an executor or administrator of a deceased notary willfully neglect, for three months after his acceptance of that appointment, to deposit the records and papers of the deceased notary which came into his hands in said clerk's office, he shall be held guilty of a misdemeanor and punished accordingly.

SEC. 8. If a notary removes his residence from the county for which he was appointed, such removal shall be taken as a resignation.

SEC. 9. It is the duty of each clerk aforesaid to receive and safely keep all such records and papers of the notary in the case above named, and to give attested copies of them and the seal of his court; for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary.

SEC. 10. That on or before the first day of May next every notary public then in commission in the territory shall have his commission recorded in the office of the recorder of deeds in his county.

SEC. 11. Any notary public failing to comply with the provisions of the foregoing section, shall be deemed removed from office from and after the said first day of May, next.

SEC. 12. Every notary public whose commission bears date after the said first day of May, next, shall comply with the following conditions: *First*. Before entering upon the discharge of his official duties, he shall give bonds to the territory of Montana in the penal sum of one thousand dollars, conditioned for the true and faithful execution of the powers and duties of his office, with two or more sureties to be approved on said bond by the clerk of the county court of the proper county. *Second*. On the approval of said bond by said clerk, said notary shall have his commission recorded by the recorder of deeds of his county, and shall pay to the clerk of the county court the sum of three dollars.

SEC. 13. Said notary public shall then be deemed commissioned, and not before.

SEC. 14. The clerk of the county court shall thereupon transmit to the secretary of the territory a certificate that said notary public is duly qualified, and specifying the date of his qualifica-

tion, which certificate shall bear the signature of said notary public, and said secretary is hereby required to file said certificate in his office, and to keep a book in which he shall enter the names of notaries hereafter qualified, in the order in which the same are transmitted to him, with the name of the county and the date of qualification of each.

SEC. 15. Any notary public exercising the duties of his office after the expiration of his commission, or when otherwise disqualified, or appending his official signature to documents when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of one hundred dollars for each offence, to be recovered before any court having competent jurisdiction in his county, and shall also be removed from office by the governor.

SEC. 16. The governor of the territory is hereby authorized to appoint one or more notaries public in any unorganized county, who shall qualify as hereinbefore provided, in the county to which said unorganized county is attached for judicial purposes.

SEC. 17. That in case of a demand of payment of any promissory note, bill of exchange, or other commercial paper, by a notary public, and a refusal by the maker, drawer, or acceptor, as the case may be, the notary making said demand may inform the indorser, or any party to be charged, if in the same town or township, by notice deposited in the nearest post office to the party to be charged, on the day of demand, and no other notice shall be necessary to charge said party.

SEC. 18. That an act in relation to notaries public, approved December 31st, A. D. 1864, and an act supplementary to an act in relation to notaries public, approved November 23d, A. D. 1867, be, and they are hereby, repealed.

SEC. 19. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT regulating the tenure of civil officers in Montana territory.

*Be it enacted by the legislative assembly of the territory of Montana:—*

SECTION 1. No person nominated or appointed by the governor of this territory to fill any territorial office therein created, under, or by any of the laws of this territory, shall hold, exercise, or perform any of the duties of, or pertaining to, such office, unless the nomination or appointment of such person or officer has first been made by and with the advice and consent of the legislative council.

SEC. 2. The acts of all persons or pretended officers, who shall pretend to hold or perform the duties of any such territorial office, having only the nomination or pretended appointment of the governor of the territory thereto, without having the said nomination or appointment made by and with the advice and consent of the legislative council of this territory, shall, to all intents and purposes, be null and void.

SEC. 3. No pretended appointment or nomination by said governor, prior to the same being made with the advice and consent of the legislative council of this territory, shall confer upon such appointee or person so nominated any power or authority to fill, exercise, or perform any of the duties of such office, nor shall it be lawful for any person acting, or pretending to act, under, or by virtue of, any such pretended nomination or appointment, to ask, demand, or receive any fee, commission, or reward whatever, for any such labor or services done or performed under, or by color of, any such nomination or pretended appointment.

SEC. 4. It shall not be lawful for the governor of this territory hereafter to remove any officer or person exercising or performing the duties of any territorial office under, or by virtue of, any law or authority of this territory, unless such removal shall be made by and with the advice and consent of the legislative council of this territory first had, nor shall any such officer be holden at the will of the governor or executive alone, nor shall any nomination or pretended appointment of any person by the governor to any such office operate as a removal of any incum-

bent or officer *de facto* performing the duties thereof, until such nomination has been sanctioned by or made by the advice and consent of the legislative council of this territory.

SEC. 5. In all cases where a vacancy shall happen in any territorial office after the passage of this act and during the recess of the legislature, first, by the death of the incumbent; second, by his resignation; third, by his ceasing to be a citizen of the territory; fourth, by his conviction of any infamous crime; fifth, by his refusal to qualify, or to give or renew his official bond within the time prescribed by law; upon the governor being notified of such vacancy, it shall be his duty to issue his proclamation convening the legislative council of this territory at the seat of the government, at a time not exceeding twenty days from the date thereof, for the purpose of filling said vacancy, and in the meantime may appoint some suitable person to fill said office, who shall take the oath and give the bond required by law of such officers, and who shall perform all the duties of his said office until the convening of said legislative council.

SEC. 6. It shall be the duty of the said legislative council to assemble at the time and place designated by said governor, in his said proclamation, and when so assembled, or a majority thereof, they shall be deemed and taken to be in executive session, and shall have and possess all power and authority, and their acts shall be as valid as if the legislative assembly of the territory was in regular or lawful session at the time, and when so assembled, the said governor shall nominate, and by and with the advice and consent of the legislative council, first had and obtained, may appoint some suitable person to fill said vacancy.

SEC. 7. The person whose nomination shall be so ratified and confirmed by said legislative council shall, without unnecessary delay, qualify, by taking the oath and giving bond, required of such officer by the laws of this territory, and shall hold their office for the term of two years, from and after their appointment as aforesaid, and until their successor in office shall be duly appointed and confirmed.

SEC. 8. In all cases when any action, information *quo warranto*, or other proceedings shall have been, or shall hereafter be brought, in any court of competent jurisdiction, in this ter-



ritory, to oust any officer *de facto*, or person holding or performing any of the duties of any territorial office in this territory, under color of right and law, even though in the opinion of said court said officer shall not be a legal or *de jure* officer, and that said officer has in his possession public property, and is performing a public duty that is or may be for the "good of the public," and that there is no other person lawfully authorized to succeed him in said office. It shall be lawful for said court or judge to make an order allowing such officer *de facto* to hold and perform the duties of the same until his successor is duly appointed and qualified under the provisions of this act, and the laws of this territory, to take charge of said office property and effects, and perform said public duties; and until said successor is so appointed and qualified all the official acts of said officer *de facto* shall be as valid and binding as if he was legally appointed and qualified as such.

SEC. 9. That all territorial officers, either *de facto* or *de jure*, now, or who may hereafter be performing the duties of such offices, shall continue to perform all the duties of such offices until their successors are appointed and confirmed, as in this act provided, and such officers shall receive all the fees and emoluments of such offices, and it shall be the duty of the secretary of the territory to receive and safely keep all bonds of such officers.

SEC. 10. All acts and parts of acts conflicting herewith are hereby repealed.

SEC. 11. This act shall take effect from and after its passage.

IN COUNCIL.—Returned by the governor, with his objections thereto. Governor's objections spread on the journal immediately. Vote by which the bill was passed, was reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary, notwithstanding?" it was passed by a two-third vote of the Council, December 27th, 1869.

IN THE HOUSE.—December 27th, vote by which the bill was passed, reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary, notwithstanding?" was passed by a two-third vote of the House. Deposited with the territorial secretary, at half-past ten o'clock P. M. this 29th day of December, 1869.

AN ACT legalizing certain acts of the county treasurer of Deer Lodge county, in the payment of certain moneys.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That all moneys derived from the sale of lots in the city of Deer Lodge, and which have been paid out of the county treasury by the treasurer of said county, on the order of the county commissioners of said county, be hereby declared valid.

SEC. 2. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act in relation to Public Highways," approved January 6th, 1889.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That so much of section two of this act, to which this is amendatory, shall not be so construed as to authorize the appointment of any member of the board of county commissioners as supervisors of roads.

SEC. 2. That supervisors of roads are hereby required to make out and return to the county clerks of their several counties, after the first Monday in February, in each year, additional lists of all persons who may have become residents of their districts, or that they may have neglected to list, prior to the first Monday of February, in each year, who are subject to payment

of road tax. That the board of county commissioners may appoint supervisors at any regular term of their session.

SEC. 3. *Be it further enacted*, that the several county treasurers are hereby authorized and empowered to collect all road tax levied in each year, as now required by law for the collection of revenue: *Provided*, that any person producing the supervisors' certificate for labor done and performed, or for material furnished, on any road, or bridge, by order of said supervisor, with the amount due therefor, shall be allowed the same on their road tax, and the county treasurer shall pay all amounts exceeding said tax to the party holding said certificate, out of any road money in the treasury, and the said certificate shall be the treasurer's voucher for money so paid.

SEC. 4. That so much of section four of the act to which this is amendatory be so amended as to require all supervisors to make a report to the county commissioners on the first Monday in February and November in each year, of all labor done and performed, and material furnished on roads or bridges in their respective counties; and the said supervisors shall receive a reasonable compensation for their services, to be allowed by the county commissssioners out of the road fund of the county; and if a surplus of money shall remain after the payment of all road dues, the county commissioners shall place the same to the credit of the road fund.

SEC. 5. That all acts and parts of acts in conflict with this act, be and the same are hereby repealed.

SEC. 6. This act to take effect and be in full force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT "To authorize the Territorial Auditor to issue a triplicate Territorial Warrant in lieu of Duplicate Territorial Warrant number three, of Two Hundred and Forty-eight, for Three Hundred and Ninety Dollars, to E. W. Haskell."

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That the territorial auditor is hereby empowered and authorized to issue a territorial warrant for three hundred and ninety dollars, number three, of two hundred and forty-eight, to E. W. Haskell, in lieu of the duplicate warrant of that number and amount issued to E. W. Haskell, and now owned by said E. W. Haskell, and by him lost.

SEC. 2. That the territorial treasurer is hereby authorized to make on his books the duplicate as lost, and triplicate issued in lieu thereof.

SEC. 3. That said triplicate warrant, when issued, shall take the place of the duplicate warrant in order of registration and payment.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

Approved December 29th, 1869.

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AN ACT to amend an act entitled "An Act defining the Council and Representative Districts of the Territory of Montana, and appointing the members of the Legislative Assembly thereof," approved December 18th, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SEC. 1. That section one of an act entitled "An Act defining the council and representative districts of the territory of Montana, and apportioning the members of the legislative assembly thereof," approved December 13th, 1867, be and the same is

hereby amended so as to read as follows: "That the next session of the legislative assembly of the territory of Montana shall convene at the seat of government of said territory on the first Monday of December, one thousand eight hundred and seventy-one, at 12 o'clock m. on that day, and biennially thereafter."

SEC. 2. That at the next general election, A. D. 1870, and biennially thereafter, there shall be elected members of the house of representatives who shall hold their offices for the term of two years; that members of the council shall be chosen as already provided by law, and shall hold their offices for the term of two years.

SEC. 3. That an act to amend an act entitled "An Act defining the council and representative districts of the territory of Montana, and apportioning the members of the legislative assembly thereof," approved January 15th, 1869, be and the same is hereby repealed.

SEC. 4. That all act and parts of acts in anywise conflicting with this act be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its approval.

COUNCIL. — Returned to council with objections of governor to the same. Objections immediately spread at large upon the journal of the council, and the vote by which it had passed the council reconsidered. Passed the council, notwithstanding the objections of the governor, Dec. 22, 1869, by a *two-third* vote of the council.

HOUSE. — December 22. Returned to the house with the objections of the governor to the same; vote by which the same passed the house reconsidered. Passed the house, notwithstanding the objections of the governor, by a *two-third* vote of the house. Deposited with territorial secretary December 24th, 1869, at 2½ o'clock.

**AN ACT** defining the duties of the Auditor of Montana Territory, in relation to Public Printing.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That hereafter, when it shall be necessary for the territorial auditor and the territorial treasurer, in the lawful discharge of their duties, to have or use any private blanks, or to have any printing done authorized by law for use in their respective offices, the same shall be procured as hereinafter provided.

SEC. 2. That it shall be the duty of the auditor of this territory immediately after the passage of this act, and thereafter at the beginning of each fiscal year, to invite sealed proposals from all publishers in this territory for doing all public printing for the use of the aforesaid officers; that he shall invite said proposals by notice thereof, to be printed for four weeks in three several newspapers in this territory. Said notice shall contain a specification of the character, quality, and quantity of printing to be done.

SEC. 3. That the sealed proposals received by the auditor from all sources for public printing shall be opened and compared by the said auditor and the district attorney of the said district where the auditor may reside; and it shall be the duty of the said auditor and district attorney to award the contract for the public printing to the person or persons who propose to do the same for the entire fiscal year at the lowest rates.

SEC. 4. That it shall be the duty of the auditor to furnish the person or persons to whom has been awarded the contract for public printing, with samples of the printing required of him, and that such contractor shall be required to comply with his contract in that respect before he shall be entitled to receive his pay therefor.

SEC. 5. That the territorial auditor is authorized to draw his warrant or warrants upon the territorial treasurer for the payment of any contract made under the provisions of this act, when the same shall be fully complied with on the part of the contractor, and not before.

SEC. 6. That the auditor and district attorney aforesaid, together shall have the power to reject any unreasonable or excessive proposals for such public printing, and in all cases where there has been but one proposal made for such printing said auditor shall immediately re-advertise for proposals, as required by this act.

SEC. 7. That any auditor or district attorney required to perform any duty under the provisions of this act, who shall directly or indirectly become interested in any bid, proposal, or contract made under the provisions of this act, shall be fined in a sum not less than one thousand dollars, nor more than five thousand dollars, to be recovered in any court of competent jurisdiction, and the same shall work a forfeiture of office.

SEC. 8. That all act and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to repeal part of an act to amend an act entitled "An Act to regulate proceedings in civil cases in the Courts of Justice of Montana territory," approved January 15, 1869.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That section fourteen of an act to amend an act entitled "An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, be and the same is hereby repealed, and that section one hundred and seventy-three of an act to regulate proceedings in civil cases in the

courts of justice of Montana territory, approved December 23, 1867, be, and the same is hereby revised and declared to be in full force and effect.

SEC. 2. That so much of section fifteen of an act to amend an act entitled "An Act to regulate proceedings in civil cases in courts of justice of Montana territory," approved January 15, 1869, as authorizes a verdict or finding of three-fourths of a jury to be received as the finding or verdict of the whole jury, be and the same is hereby approved.

SEC. 3. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT amendatory of an act entitled "An Act to regulate proceedings and define the jurisdiction of the Probate Courts of the territory of Montana," approved December 23, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. That in addition to the jurisdiction conferred upon the probate courts of this territory, by the act to which this is amendatory, it is hereby expressly declared, that said courts shall have jurisdiction in all civil actions wherein the amount in controversy shall be not less than one cent, nor more than five hundred dollars, and said courts shall have power to tax and enter judgment for costs in all cases of a civil nature without regard to the amount recovered, such judgment for costs in all cases to follow the judgment of the action.



SEC. 2. That such probate court in all criminal actions wherein the fine does not exceed the sum of five hundred dollars, or imprisonment not exceeding one year, or both, such fine and imprisonment, on the intervention of a grand jury, shall, in its discretion, have the right to tax the costs and enter judgment therefor when such prosecution shall appear frivolous or vexatious against the prosecuting witness, or the instigator of such prosecution.

SEC. 3. That section (39) thirty-nine of chapter one of an act of the legislative assembly of Montana territory, entitled "An Act to regulate proceedings in criminal cases in the courts of justice in the territory of Montana," be and the same is duly repealed.

SEC. 4. That in all cases of the arrest and examination of offenders, as provided in said act, and in lieu of the section above repealed, it shall be the duty of the justice of the peace, or other judicial officer before whom such an examination is had, to examine all witnesses so produced before him, to reduce such examination to writing, and cause the same to be signed by the witness so testifying.

SEC. 5. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

Approved January 6, 1870.

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AN ACT to amend an act entitled "An Act defining the duties of county treasurers and the payment of county warrants," approved November the 9th, A. D. 1867.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That section six of an act entitled "An Act defining the duties of county treasurers and the payment of county warrants," approved November the 9th, A. D. 1867, be so amended as to read: "The county treasurer shall receive the fol-

lowing fees, beginning with every fiscal year: Twelve and one-half per cent on the first five thousand dollars of revenue, from all sources, by him collected; for all sums between five and ten thousand, eight per cent; for all sums over ten thousand, four per cent; for every license issued, one dollar, to be paid by the party applying for the same; for every mile traveled in going and returning, on the most direct route, making settlement with the territorial auditor and treasurer, twenty-five cents; for levying on and selling property for taxes, the same fees as allowed to sheriffs, to be paid by delinquents; but in no case shall any county treasurer be allowed a fee for disbursing."

SEC. 2. That so much of an act entitled "An Act regulating the fees of officers, jurors, and witnesses," as relates to the fees of treasurers, approved February the 9th, A. D. 1865, and all acts and parts of acts conflicting with this act, are hereby repealed.

SEC. 3. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act providing for the collection of revenue," approved January 15th, 1869."

*Be it enacted by the legislative assembly of the territory of Montana:—*

SECTION 1. The following sections of said act shall be and are hereby amended, as follows: Strike out section seven of said act, and insert the following in lieu thereof: "All personal property shall be listed, assessed, and taxed in the county where the same may be found, unless the owner or agent produces a receipt or certificate from the collector or assessor, showing that he has

paid tax or been assessed for taxation on said property in some other county for the same year: *Provided*, that goods, wares, and merchandise in transit to, or belonging, or consigned to, a resident of this territory, shall not be assessed or taxed until such goods or merchandise shall reach its destination or place of consignment."

SEC. 2. Repeal section twenty-eight of said act, and enact the following in lieu thereof: "The treasurer shall, within twenty days from the time he shall receive the assessment roll from the clerk, direct to each tax-payer in his county a written or printed notice, containing the amount of tax due from such tax-payer, and the time the same becomes due. Such notice shall be directed to the nearest post office to which said tax-payer resides. Printed blanks for said notices and postage stamps for the same shall be furnished said treasurer by the board of county commissioners."

SEC. 3. That is hereby made the duty of the county commissioners, when they find, from the return of the assessor's roll, that the property within the county has not been fully and lawfully assessed, as to amount and value of such property, the county commissioners are hereby authorized and empowered to appoint a reliable person as deputy assessor, to assess or re-assess all such property immediately, and make return to the county clerk of his assessment roll within twenty days from the date of his appointment; and if, from said deputy's returns, the county commissioners find that the assessor's return of property has not been made correctly as to amount and value of property, the commissioners shall allow the deputy such compensation as they deem sufficient for such services, and deduct said amount from the per centage now allowed by law to the assessor.

SEC. 4. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to repeal an act entitled "An Act providing for the collection of the revenue," approved December 23d, A. D. 1867."

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That the act entitled "An Act providing for the collection of revenue," approved December 23d, 1867, be and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved December 22d, 1869.

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AN ACT to authorize the citizens of Jefferson county to change the county seat of said county.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That the legal voters of Jefferson county, at the next general election, in the year one thousand eight hundred and seventy-one, shall have the right to change their county seat ; and the place receiving the highest number of legal votes shall thereafter be the county seat of said county.

SEC. 2. That it shall be the duty of all county officers of Jefferson county to remove to and hold their offices at such place as may be chosen as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 7. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT authorizing the county commissioners of the several counties within the territory of Montana to regulate and establish the tolls on bridges and ferries.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That the county commissioners of the several counties be and they are hereby authorized and empowered to regulate and establish the rates of toll on bridges and ferries, within the limits of their respective counties, wherever the tolls are not now established by law; and said toll rates so fixed shall be understood to be in United States currency.

SEC. 2. Whenever any bridge or ferry is located on any stream dividing any of the counties, the commissioners of either of said counties may perform the duties required in this act.

SEC. 3. That every person, or company of persons, keeping any bridge or ferry, shall set up and keep in a conspicuous place on said bridge or ferry a board on which shall be written, painted, or printed in a plain, legible manner, the rates of toll prescribed by the county commissioners, as provided for in this act.

SEC. 4. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to repeal an act giving extra or increased compensation to the Governor of Montana Territory.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That an act entitled "An Act to amend section one of an act entitled 'An Act to amend an act to provide increased compensation to the officers of this territory,'" approved Janu-

ary 15, 1869, and all other acts, and parts of acts, whereby extra or increased compensation is given to the governor of Montana territory, be and the same are hereby repealed.

SEC. 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT authorizing the citizens of Meagher county to change the county seat of said county.

*Be it enacted by the Legislative Assembly of the Territory of Montana:—*

SECTION 1. That the legal voters of Meagher county shall, at the next general election, in the year one thousand eight hundred and seventy-one, have the power to change their county seat by voting for as many places as the voters may choose, and the place having or receiving the highest number of legal voters shall be declared the county seat.

SEC. 2. That it shall be the duty of all officers of Meagher county to remove to and hold their offices at such place as may be chosen as the county seat of said county, by a vote of the people thereof, within three months after the vote shall have been canvassed and the result declared.

SEC. 3. That this act take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the Territory, has become a law without his approval.]

AN ACT authorizing officers to prosecute suits, without giving bond.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION 1. That hereafter, whenever it shall be necessary for any territorial, district, or county officer to commence, prosecute, or defend any suit by attachment, or otherwise, on behalf and in the name of the territory of Montana, under the provisions of any statute of this territory, such officer shall so commence, prosecute, or defend any such suit, without giving bond, nor shall any such officer be required, when prosecuting any suit on behalf of the territory, or any county thereof, be required to pay or deposit any fee or amount before or during the prosecution of any such suit, nor shall any such officer so prosecuting or defending be taxed with costs or damage, but such cost or damage, when such officer shall fail to sustain his suit, shall be taxed to the said county or territory, as the case may be.

SEC. 2. That all acts or parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT regulating the fees of County Clerks and Recorders.

*Be it enacted by the Legislative Assembly of the Territory of Montana :—*

SECTION. 1. The several county clerks and recorders of this territory shall be and are hereby authorized to receive the same fees as the clerks of the district court, for like services, except as herein otherwise provided :—

For entering each order of court.....	\$ 50
Administering each oath.....	25
Each certificate and seal.....	1 00
For each bond and license.....	1 50
For taking proof in case of estrays and granting certificate of the same.....	1 00
For advertisement, including copy for newspaper publica- tion.....	1 50
For every certificate of magistracy under seal.....	1 00
Per diem attending meeting of board of commissioners..	10 00
<i>Provided</i> , no clerk shall receive said per diem compensation who shall demand and receive compensation on items for each order of court.	

## COUNTY RECORDER'S FEES.

For every instrument authorized to be recorded : —

First one hundred words.....	\$1 00
For each additional folio.....	50
Each entry in index.....	25
Certificate of record.....	1 00
Recording marriage certificate.....	1 00
Taking acknowledgments.....	1 00
Copies of record, for one hundred words.....	30
For making any search when no certificate is given.....	50
Recording town plats, for first one hundred lots or less....	5 00
For each additional lot.....	05
For making abstract of title, first conveyance.....	1 00
For each subsequent conveyance.....	50
Abstracts for original entries each.....	1 25
For recording quartz claims each, including certificate....	1 00

SEC. 2. That so much of an act entitled "An Act regulating the fees of officers, jurors, and witnesses," approved February 9th, 1865, regulating county clerks' and recorders' fees, and section two of an act amendatory of the above, approved December 23d, 1867, and all other acts and parts of acts conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.



[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT "To amend an act in relation to the appointment of Deputy District Attorneys," approved December 23d, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That so much of section one of said act as relates to, and prohibits, the district attorneys of the several judicial districts of this territory from appointing deputy prosecuting attorneys in the counties of Meagher, Deer Lodge, and Missoula, be and the same is hereby repealed.

SEC. 2. That all laws or parts of laws conflicting with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7th, 1870.

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AN ACT declaring Sarah Francis Gorham of lawful age.

*Be it enacted by the Legislative Assembly of the Territory of Montana, as follows : —*

SECTION 1. That Sarah Francis Gorham, an infant of the age of sixteen, a citizen of Montana, be and she is hereby declared of lawful age, and to have and possess full power and lawful right to grant, bargain, sell, and convey all real estate of

which she is now or may at any time hereafter become the owner, either in law or equity, situated in Randolph county, in the state of Missouri.

SEC. 2. All contracts, bargains, sales, or conveyances of said real estate made by her shall be as lawful and binding upon said Sarah Francis Gorham, her heirs, assigns, and legal representatives, as the same would or could have been by the laws of said state of Missouri, had she have been of lawful age at the time of the making of said sale or conveyance; and that all such transfers and conveyances of said real estate, or any part thereof, shall, to all intents and purposes, pass from her, her heirs and legal representatives, all right, title, claim, and interest in and to said real estate of the said Sarah Francis Gorham, and shall vest the same in the purchaser or purchasers thereof to the same extent, and with like legal effect and validity as such sale or conveyance would or could have done had such sale or conveyance been made by the said Sarah Francis Gorham after arrival at full age.

SEC. 3. This act shall take effect and be in full force from and after its passage.

[NOTE FROM THE SECRETARY. — The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT amendatory to an act entitled "An Act authorizing the repeal of an act to incorporate the City of Virginia."

*Be it enacted by the Legislative Assembly of the Territory of Montana: —*

SECTION 1. That section one of an act entitled "An Act authorizing the repeal of an act incorporating the City of Virginia," approved February 12th, 1869, be so amended as to read as follows: "SECTION 1. That on the first Monday of September,

A. D. 1870, the question of repealing the act incorporating the City of Virginia, approved December 30th, 1864, shall be submitted to the qualified voters of said city; and, if a majority of the qualified voters be in favor of the repeal of said act, the same shall be from thenceforward null and void, and of no effect; but if a majority of the votes cast at said election be against the repeal of said act, the same shall remain in full force and effect."

SEC. 2. That section three of said act, authorizing the repeal of an act incorporating the City of Virginia, be so amended as to read as follows: "SECTION 3. That until said question of repeal is determined as aforesaid, there shall be no further election for mayor or aldermen under and by virtue of the charter and ordinances of said city, and that the present mayor and aldermen shall hold their offices under said charter until the question of repeal be determined as aforesaid, unless vacancies occur by reason of death or otherwise. In case a vacancy shall occur in the office of alderman, the same shall be filled by the mayor; and all vacancies occurring in the other offices provided for under and by virtue of the charter and ordinances of said city, shall be filled in the same manner provided by the said charter and act amendatory thereof; and the common council of said city shall have the exclusive power and authority to appoint the police justice, one city treasurer, one city marshal, and one city attorney, and to remove at will any of said officers."

SEC. 3. That all acts and parts of act in anywise conflicting with the provisions of this act be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to provide for the custody, maintenance, and treatment of the Insane in the territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana : —*

SECTION 1. That there shall be elected during the present session of the legislative assembly of the territory of Montana, and biennially at each regular session thereafter, by the legislative assembly in joint convention assembled, one commissioner from each of the judicial districts, as the same are or may be established by law in this territory, who shall constitute the board of commissioners for the insane of Montana territory, and who shall exercise the powers and perform the duties hereinafter mentioned.

SEC. 2. Said commissioners shall hold their offices respectively for the term of two years, and until their successors shall be elected and qualified.

SEC. 3. It shall be the duty of the secretary of the legislative council immediately to notify the persons who may be elected under the provisions of this act, of their election, by transmitting to each of them, by the most speedy and reliable means, a copy of the proceedings of such joint convention relating to said election; and the person so elected shall, within ten days after such election, take and subscribe to the following oath: I, A B, do solemnly swear that I will truly and faithfully discharge the duties of a member of the board of commissioners for the insane of Montana territory; that I will carefully guard against any and all improper expenditures of money in all transactions connected with said board; and that I am not now and will not be during the continuance of my official term, directly or indirectly interested in any bid or contract made by said board. Who shall give a joint bond in good and sufficient security for the faithful performance of their duty, in the sum of twenty thousand dollars, which oath and bond shall be filed with the secretary of the territory.

SEC. 4. It shall be the duty of the board of commissioners aforesaid, as soon as practicable after taking the oath aforesaid, and within forty days after their election, to meet at any place within the judicial districts they may agree upon, and shall or-

ganize by electing one of their number as president, and one of them as secretary of said board.

Sec. 5. The secretary shall keep and preserve written minutes of all proceedings of said board, and shall deliver the same to his successor, and each one of said commissioners shall have one vote in determining any question or transacting any business by said board, and all contracts of said board shall be executed in the name of the territory of Montana, by the president and secretary of such board.

Sec. 6. The said commissioners shall have the power to prescribe all necessary rules for the proper custody, maintenance, and treatment of all persons adjudged insane as hereinafter provided within this territory; and it shall be their duty to publish the same, inviting sealed proposals, within a period of thirty days thereafter, for the custody, maintenance, and treatment of such insane persons in accordance with such rules; which publication shall be made in some newspaper published in each one of said districts in which a newspaper shall be published, and the first number of which newspaper containing such publication shall be published at least thirty days before any contract shall be made by said commissioners by virtue of this act. All proposals tendered in pursuance of said publication shall be accompanied by a bond in the sum of twenty-five thousand dollars, with sufficient sureties, to be approved by the president of said board, conditioned for the faithful performance of the terms of the contract in case such proposal shall be accepted.

Sec. 7. Said commissioners shall canvass all proposals received in accordance with said publication, and they are hereby authorized and empowered to contract on behalf and in the name of the territory of Montana, with the lowest and best bidder, for the care, custody, and maintenance of such insane persons, in accordance with the requirements published as aforesaid; but said commissioners shall have and reserve the power to reject any and all of such proposals; and such contracts shall require the person or persons entering into the same to receive all persons adjudged insane and delivered to him or them, as hereinafter provided; and to keep, maintain, and treat them in accordance with the requirements of said commissioners; and shall specify the compensation agreed upon for each of such insane persons.

SEC. 8. Said commissioners shall, at all times, have free access to said insane persons, and it is hereby made their duty to elect one of their board, whose duty it shall be visit and inspect the condition of all insane persons provided for by this act, at least once in three months.

SEC. 9. The said commissioners shall, upon the application of the person or persons having the custody of said insane persons, under such contract, at the end of each quarter, certify to the territorial auditor the amount due to such person therefor; and it shall be the duty of such auditor to draw his warrant upon the territorial treasurer for such amount, payable out of the moneys hereinafter appropriated.

SEC. 10. The said contract shall require the person or persons entering into the same to provide and keep a secure and suitable building for the safe and proper keeping of such insane persons in the manner prescribed by said commissioners; and such person shall immediately transmit and cause to be filed in the office of the probate judge in each county in the territory a notification of the place at which insane persons from such county shall be delivered for safe keeping and treatment under the provisions hereof.

SEC. 11. From and after the passage of this act, it shall be the duty of the probate judge, or, in his absence or inability to act, the chairman of the boards of the county commissioners of the several counties of this territory, upon the application of any person under oath, setting forth that any person, by reason of insanity, is unsafe to be at large, or is suffering under mental derangement, to cause the said person to be brought before him at such time and place as he may direct, and the said judge or commissioner shall also cause to appear, at the same time and place, a jury of three citizens of his county, one of whom shall be a licensed practicing physician, who shall proceed to examine the person alleged to be insane, and if such jury, after careful examination, shall certify upon oath that the charge is correct, and the said probate judge or commissioner is satisfied that such person, by reason of insanity, is unsafe to be at large, or is incompetent to provide for his or her own proper care and support, and has no property applicable to such purpose, and has no kindred in the

degree of husband or wife, father or mother, children, or brother or sister, living within this territory, of sufficient means and ability to provide for such care and maintenance, or if he or she have such kindred within the territory, and such kindred fail or refuse to properly care for and maintain such insane person, such judge or county commissioner shall make out duplicate warrants, reciting such facts, and place them in the hands of the sheriff of said county, who shall immediately, in compliance therewith, convey the person or persons therein named, and deliver him, her, or them, to the contractor aforesaid, at the place designated in the notification herein required, and such contractor shall acknowledge, by endorsement in writing upon the back of each of said warrants, the delivery of such persons described therein to him, and the date thereof; and such sheriff shall return one of said warrants to the officer issuing the same, and forward the other to the secretary of the board of commissioners aforesaid, who shall file and preserve the same.

SEC. 12. In case such contractor shall fail to perform his agreement, said commissioners may declare said contract annulled, and may proceed to re-advertise and re-let the same, in the meantime provide for the custody and care of such insane persons as may be under the care of such contractor, and such contractor and his sureties shall be liable for all damages sustained by reason of such failure.

SEC. 13. The district attorneys of the several districts of this territory shall, at the request of the said board of commissioners, sue for, recover, and collect from the property of any insane person maintained under the provisions hereof, sent from any county in such district, or from any person or persons legally bound to support such insane person or persons, the amount expended in the arrest, examination, and transportation of such insane person, and in his or her custody, maintenance, and treatment.

SEC. 14. Said commissioners shall each be allowed the sum of six dollars for each day they may be actually and necessarily engaged in the discharge of their duties as herein prescribed, and twenty cents for each mile actually and necessarily traveled by them in the performance of such duties.

SEC. 15. Said commissioners shall certify to the territorial

auditor such amounts as may be payable for expenses incurred by virtue hereof, and the auditor shall draw his warrant upon the territorial treasurer therefor.

SEC. 16. There shall be allowed to the probate judge or commissioner the following fees: For the examination, to include all necessary entries, three dollars; for each warrant issued, one dollar.

SEC. 17. And there shall be allowed to the sheriff the following fees: For arresting and bringing the person charged with insanity before the probate judge, or, in the absence of the judge, the chairman of the county commissioners, and subpoenaing witnesses, the same fees as are allowed by law in other cases; for taking an insane person to the place designated by the probate judge or chairman aforesaid, five dollars per day for the time necessarily employed, and twenty cents for each mile necessarily traveled, and all necessary disbursements for the support of the insane person, to be audited by the county commissioners and paid out of the county treasury of the county in which said person shall be adjudged insane.

SEC. 18. It shall be the duty of said board of commissioners to make full report of all their proceedings under this act to the legislative assembly at such regular session thereafter; and in case a vacancy occurring in said board during a recess of the assembly, the governor shall designate some suitable person to fill such vacancy until the next meeting of the legislative assembly.

SEC. 19. The sum of fifteen thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act during the years commencing January 1st, 1870, and January 1st, 1871.

SEC. 20. This act to take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]



AN ACT to amend an act entitled "An Act to regulate the fees of officers, jurors, and witnesses," approved February 9th, 1865.

*Be it enacted by the legislative assembly of the territory of Montana:—*

SECTION 1. That so much of an act regulating the fees of officers, jurors, and witnesses, approved February 9th, 1865, as relates to the fees of justices of the peace in the territory of Montana, be and the same is hereby repealed.

SEC. 2. Justices of the peace shall be allowed fees for their services, as follows:—

For docketing each case.....	\$ 50
“ issuing summons for one person.....	1 00
“ each additional person named therein.....	75
“ order of arrest.....	1 00
“ attachment against the person for contempt.....	1 00
“ attachment against property for one person.....	1 00
“ each additional person named therein.....	50
“ mittimus.....	1 00
“ writ of replevin and bond for same.....	2 00
“ subpoena for one person.....	1 00
“ each additional person named therein.....	25
“ venire for jury.....	1 00
“ execution.....	1 00
“ writ of restitution or re-restitution.....	1 00
“ warrant for one person in criminal cases.....	1 00
“ each additional person therein named.....	50
“ order on jailor for person or persons.....	50
“ writs of forcible entry and detainer, or forcible detainer only.....	1 00
“ every other writ required by law.....	1 00
“ entries on docket each adjournment.....	25
“ entry of judgments.....	25
“ entry of dismissions or discontinuances.....	25
“ entry of satisfaction of judgment.....	25
“ entry of transfer of judgment on docket.....	25
“ appointing guardian <i>ad litem</i> for a minor.....	50
“ taking verdict.....	25

For each motion decided by justice.....	25
“ making up docket, drawing certificates and affidavits, each one hundred words.....	25
For certifying despositions, transcripts of dockets, entries, and every other record, or copies of any pleadings, papers, or writings on file, not otherwise specified..	50
For transcript of docket, copies of any record, pleading, writing, or other paper on file, each one hundred words.....	20
For swearing each jury.....	25
“ swearing each witness, arbitrator, referee, appraiser, or other person.....	25
For filing each paper required to be preserved by a jus- tice.....	25
For taking and approving each bond or undertaking....	75
“ taking and approving each recognizance.....	50
“ appointing special constable.....	25
“ appointing appraisers of an estray, or of money or goods found.....	25
For certified copies of appraisement.....	50
“ issuing warrants as provided by the act entitled “An Act concerning estrays,” approved January 11th, 1865.....	75
For taking the acknowledgment of deeds or other instru- ments of writing of one person.....	75
For each additional person named therein.....	50
“ trying cause of forcible entry and detainer, or de- tainer only.....	3 00
For criminal cases.....	3 00
“ civil cases.....	2 00
“ taking depositions, for the first one hundred words..	50
“ each additional one hundred words.....	25
“ entering an appeal.....	25
“ transmitting papers, when required by law or any ap- pellate court.....	25
For performing duties as coroner, the same fees as coroner.	
“ marrying and making returns as required by law...	10 00

For writing affidavit, or other writing not hereinbefore  
provided, for each one hundred words..... 25  
For issuing a commission or dedimus to take testimony in  
any civil cause pending in a justice court..... • 1 00

SEC. 3. All acts and parts of acts in conflict with this act be,  
and the same are hereby, repealed.

SEC. 4. This act to take effect and be in force from and after  
its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been  
presented to the governor of the territory for his approval, and  
not having been returned by him to the house of the legislative  
assembly in which it originated, within the time prescribed by  
the Organic Act of the territory, has become a law without his  
approval.]

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AN ACT to amend an act entitled "An Act in relation to cost," approved  
January 15th, 1869.

*Be it enacted by the legislative assembly of the territory of Mon-  
tana :—*

SECTION 1. That each party to a civil action in any court of  
record in this territory, shall be and is hereby required to ad-  
vance and pay the fees fixed by law for the performance of any  
service or duty by any officer of such court, at the instance of  
such party, at the time such service is rendered; and no such  
officer shall be legally required to perform such service or duty  
unless the fees fixed therefor by law shall be first paid or tender-  
ed to him by such party, or unless in case such service be in be-  
half or at the instance of the plaintiff; in such action such  
plaintiff shall have complied with the requirements of the act of  
which this act is amendatory; or unless in case such service be  
in behalf of, or at the instance of, the defendant in such action,  
such defendant in such action shall make affidavit that he is un-  
able to pay such fees.

SEC. 2. That all acts and parts of acts in conflict with this act  
be, and they are hereby, repealed.

SEC. 3. That this act take effect and be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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AN ACT to amend an act entitled "An Act establishing a common school system for the territory of Montana," approved February 7th, 1865.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That chapter 3d, section 11th, of said act be, and the same is hereby, amended so as to read as follows : —

SEC. 2. It shall be the duty of the clerk to furnish the county superintendent, within ten days after the first Friday in November in each year, a report, verified by affidavit, containing the number and names of scholars in his district over four and under twenty-one years of age, how long a school has been kept in his district the past year, what proportion of scholars in the district have attended school, what school books are principally used, the amount of money paid to teachers or otherwise expended.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to amend an act entitled "An Act defining the duties of territorial auditor and territorial treasurer of the territory of Montana," approved December 3d, 1867.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. The salary of the territorial auditor shall hereafter, commencing on the first day of January, A. D. 1870, be three thousand dollars per annum, payable quarterly at the end of each quarter, by warrants drawn by the territorial auditor upon the territorial treasurer.

SEC. 2. That sections twelve and thirteen of an act entitled "An Act defining the duties of territorial auditor and territorial treasurer of the territory of Montana," approved December 3d, 1867, and all other acts giving salary, fees, or compensation to the territorial auditor, be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved.

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AN ACT to authorize the auditor of Montana territory to perform certain duties.

*Be it enacted by the legislative assembly of Montana territory : —*

SECTION 1. The auditor of the territory of Montana is hereby authorized and empowered to procure, for the use of the treasurer of said territory, a suitable fire-proof safe, to purchase an official seal and a letter press for the use of the auditor's office.

SEC. 2. The sum of six hundred and fifty dollars, or so much thereof as is necessary, is hereby appropriated to carry out the provisions of this act.

SEC. 2. This act shall take effect from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

AN ACT to provide for the contingent expenses of Meagher and Gallatin counties.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That the commissioners of Meagher and Gallatin counties are hereby authorized and empowered to set apart a sum not exceeding thirty-five per cent, arising from the revenue of said counties, for the contingent expenses of said counties.

SEC. 2. All acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

Approved January 7th, 1870.

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AN ACT to authorize the territorial treasurer to issue bonds for balance of funded indebtedness of the territory of Montana.

*Be it enacted by the legislative assembly of the territory of Montana : —*

SECTION 1. That the treasurer of the territory of Montana is authorized to issue the bonds of the territory for the balance of old warrants, as provided for in section one (1) of an act supplemental of an act to provide for the funding of the debt of Montana territory, approved December 3d, 1867; and that the bonds shall date, as provided in said act, on the 1st day of June, 1869; said bonds not to exceed in amount the sum of two thousand dollars.

SEC. 2. This act shall be in force from and after its passage.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

## HOUSE JOINT RESOLUTION.

*Be it resolved by the House, the Council concurring,* That the sum of forty-five dollars (\$45.00) be, and the same is hereby, appropriated to Bartlett & Weimmer, for fitting up council hall.

*And be it further resolved,* That the auditor is hereby required to audit the same, and draw a warrant upon the treasurer in favor of Bartlett & Weimmer for the above sum.

Approved January 7th, 1870.

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HOUSE JOINT RESOLUTION NO. 8.

*Resolved by the House, the Council concurring,* That the secretary be requested and instructed to furnish to the members of both houses of the assembly two copies, and to each of the clerks and sergeant-at-arms one copy, of the laws and journals passed at this session, as soon as convenient, after printed; and, further, the secretary is hereby directed and instructed to direct such laws and journals to the post offices of such members, clerks, and sergeant-at-arms, and the territorial auditor is hereby directed to draw his warrant on the territorial treasurer in payment for the required amount of the postage, on the certificate of the secretary.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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CONCURRENT RESOLUTION.

*Resolved by this House, the Council concurring,* That there be, and there is hereby, appropriated out of the territorial treasury, from any moneys not otherwise appropriated, the following amounts to the following named persons, and for the amounts named to each person or persons:—

In favor of John Monheim, for one and one-half cords of wood, and cutting the same, for the sixth legislature, twenty dollars; in favor of Bassett & Co. for printing the report of the joint committee on ways and means, and papers furnished the sixth legislature, one hundred and ninety-two dollars and eighty-five cents.

Approved January 7th, 1870.

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*Resolved by the House, the Council concurring,* That the territorial auditor is hereby authorized to draw his warrant upon the territorial treasurer in favor of Lichel & Mahan for the sum of forty-seven dollars and fifty cents, for money paid fitting up the hall of the house of representatives for the sixth session of the legislative assembly.

Approved December 30, 1869.

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*Resolved by the House, the Council concurring,* That there be and is hereby appropriated out of the territorial treasury, from any money not otherwise appropriated, the following amount: To S. D. Johns, for services as clerk of the committee on ways and means of the house and council, \$240; and the territorial auditor is hereby directed to draw his warrant on the treasurer for said amount.

Approved January 5th, 1870.

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#### .. COUNCIL JOINT RESOLUTION NO. 1.

*Resolved by the Council of the legislative assembly of the territory of Montana, the House concurring,* That the auditor be, and he is hereby, authorized to draw his warrant upon the territorial treasurer in favor of the following persons; to-wit: Eighty-four dollars to James Wood and Charles Reynolds, for storage on eight (8) tons of government arms, from January 4th, 1869, to April 4th, 1869, three months, at three dollars and fifty



cents per ton per month. Said amount is hereby appropriated out of any money in the treasury not otherwise appropriated.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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#### CONCURRENT RESOLUTION NO. 1.

WHEREAS, The national government has taxed the people of Montana since its organization as a territory, and failed to secure its citizens that protection to life and property to which they are justly entitled; and, whereas, during the continuance of a territorial government, the people may fairly anticipate a continuance of such taxation, without protection commensurate thereto; and whereas, the appointment and removal of our governors, judges, and territorial officers, without consulting the wishes and wants of the people of the territory, at the caprice of executive power, has imposed, and will continue to impose, upon the people a system of vassalage which is both offensive and burdensome; and whereas, the permanent population of the territory is increasing so rapidly that before the time fixed by law for the next meeting of the legislative assembly, in the winter of 1871-72, the people of the territory may desire to organize a state government, and apply for and obtain admission into the Union as a State; therefore,

*Be it resolved by the Council, the House of Representatives concurring therein :—*

1st. That there shall be elected by the legislative assembly, in joint convention, during the present session thereof, a committee consisting of six citizens of this territory, who shall constitute a "State Convention Committee," with power and authority to act as hereinafter prescribed.

*Provided*, That neither said committee, nor any convention which may assemble in pursuance of their authority, shall have power to contract any indebtedness for which the territory of Montana shall be in any way responsible.

2d. *Resolved*, That the persons elected as hereinbefore provided, or any four of them, shall, as soon as practicable after the passage of this resolution, assemble and elect one of their number president, and also a secretary and treasurer, who shall hold their positions during the pleasure of the committee.

3d. *Resolved*, That all official acts of that committee shall be recorded in a book to be provided for that purpose, and every official act, to be valid, shall require an affirmative vote of two-thirds of said committee. In case of the death, removal from the territory, refusal or failure to act, or resignation of any member of said committee, the remaining members are authorized to fill such vacancy.

4th. *Resolved*, That said committee are hereby authorized to call on the qualified electors of the territory to elect delegates to a constitutional convention, at such time and in such manner as they may prescribe: *Provided*, That the number of delegates shall be the same as the number of members in both branches of the legislative assembly; and, *Provided further*, That no such election shall be held until after the completion of the federal census in 1870.

[NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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WHEREAS, The laws of Montana territory passed at the different sessions of the legislature thereof, in their present conditions, are much in need of revision, classification, and codification.

Wherefore, be it resolved by the council, the house concurring, That the present judges of the supreme court of this territory, to-

wit: H. L. Warren, Hiram Knowles, and G. G. Symes be and they are hereby constituted a commission, invested with full power and authority, to revise, classify, and codify all the general laws of this territory, omitting from their consideration all special laws, and they shall have authority to sectionize, index, and arrange the same in one volume, as in their judgment may seem best; and shall have power in such revision and codification to omit all surplus matter, such as titles of acts, enacting clauses, approvals, &c., if in their judgment they may deem it best; and such commission are required to report such amendments, alterations, and modifications to the civil and criminal practice acts as they may deem important, which alterations can be made to appear as a part of the code they may prepare. And they are required to report the result of their labors to the legislature at its next regular session for its adoption and ratification.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

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*Resolved by the Council, the House concurring,* That the secretary of the territory of Montana, when he has the laws of the sixth legislative assembly published, be and he is hereby authorized to cause the printed copies thereof to be published free from all errors in punctuation, orthography, and grammatical construction: *Provided* that the corrections made do not interfere with the legal effect of said laws.

[NOTE FROM THE SECRETARY.— The foregoing act having been presented to the governor of the territory for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the Organic Act of the territory, has become a law without his approval.]

## COUNCIL JOINT RESOLUTION NO. 5.

*Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House concurring,* That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of the following persons; to-wit: To D. W. Tilton & Co., two dollars and eighty-three cents for ink; to B. D. Maxham, eight dollars and fifty cents for candles furnished the sixth legislative assembly; to John Monheim, seven dollars and fifty cents for one-half cord of wood, and sawing the same. Said amounts are hereby appropriated out of any money in the treasury not otherwise appropriated.

Approved January 6, 1870.

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## SUBSTITUTE FOR COUNCIL JOINT RESOLUTION NO. 2.

*Resolved by the Council of the Legislative Assembly of the Territory of Montana, the House of Representatives concurring,* That the territorial auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer in favor of W. W. Morris, for the sum of thirteen dollars and twenty-five cents for articles furnished for use of arsenal.

Approved January 6, 1870.

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## COUNCIL JOINT RESOLUTION.

*Resolved by the Council of the Legislative assembly of the Territory of Montana, the House concurring,* That the auditor be and he is hereby authorized to draw his warrant upon the territorial treasurer for the sum of fifty dollars, in favor of the masonic fraternity of Virginia City, for rent of council hall during the present session.

Approved January 5, 1870.

*To the honorable the Senate and House of Representatives of the United States, in Congress assembled : —*

Your memorialists, the Legislative Council and House of Representatives composing the Legislative Assembly of the territory of Montana, would respectfully represent that the present approach to the territory from the Union Pacific railroad, some four hundred (400) miles in distance, is by a road which, for a portion of the distance, passes through a mountainous country, and another portion through vast, sandy, alkali plains; that it is at all times both difficult and dangerous, and of much greater length than necessary; that various special franchises have been granted by the neighboring territories, rendering the tolls upon it oppressive, and greatly increasing in amount the price of provisions brought over it into this territory; that as a military road, it is vastly expensive to the government, and has ever been one of the chief impediments to the growth and prosperity of the territory. They would further represent, that during the past year, in the effort to explore another route, it has been discovered that a road commencing, one branch at Fort Ellis, and the other at the city of Helena, and uniting in the valley of the Madison river, and traveling Henry's Pass of the Rocky Mountains to Henry's lake; thence down the east side of Henry's lake and Henry's fork of the Snake river to that stream, in all, a distance of one hundred and thirty-five miles, would overcome the worst obstacles of the present route, reduce the distance some seventy miles, and afford a solid and level roadway, instead of the sandy plains and high mountains which now impede the passage to the railroad. This new route, if improved, would greatly facilitate the means of travel into the territory, afford a fine road for government and military purposes, and, being free from tolls, would greatly reduce the price of groceries and provisions brought into the territory for home consumption.

It would, moreover, be in direct line with the military posts in the territory, and at all seasons of the year escape the obstructions of mud, sand, and mountains, so frequently encountered on the main route now traveled, and the one heretofore employed by the government, by way of Carter and Soda Springs.

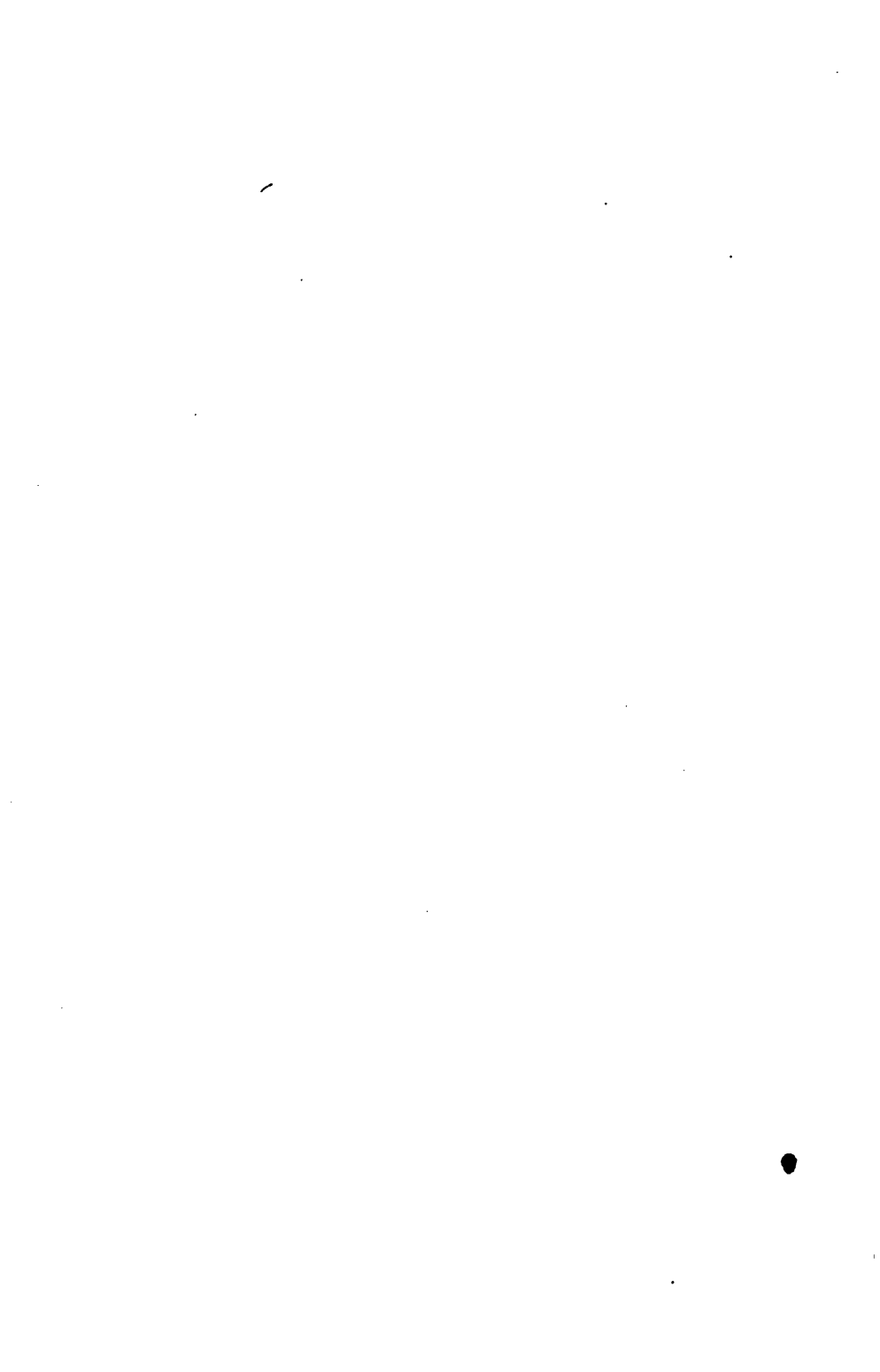
The character of the route, the probable expense of improving

it, distance, &c., are fully set forth in a preliminary survey made during the past season, which is hereto attached and made a part of this memorial.

Your memorialists would further represent that the present population of Montana, by reason of the various reverses in business during the past two years, and the character of the population being mostly young men without means, and who have just engaged in business, unable to bear the expense of constructing a free road over this route. There are several streams, including the Snake river, to be crossed by bridges, which constitutes the chief cost of construction. It would require an outlay not to exceed forty thousand dollars, but this would be more than repaid to the government by the superior facilities afforded by the road in the transportation of government stores to the various military posts, and in the advantages which would be secured to the territory by an early construction of the road.

Your memorialists would, therefore, pray that an appropriation of forty thousand (\$40,000), to be expended under the direction of competent engineers, be appropriated for the early commencement and completion of this much needed improvement.

Approved.



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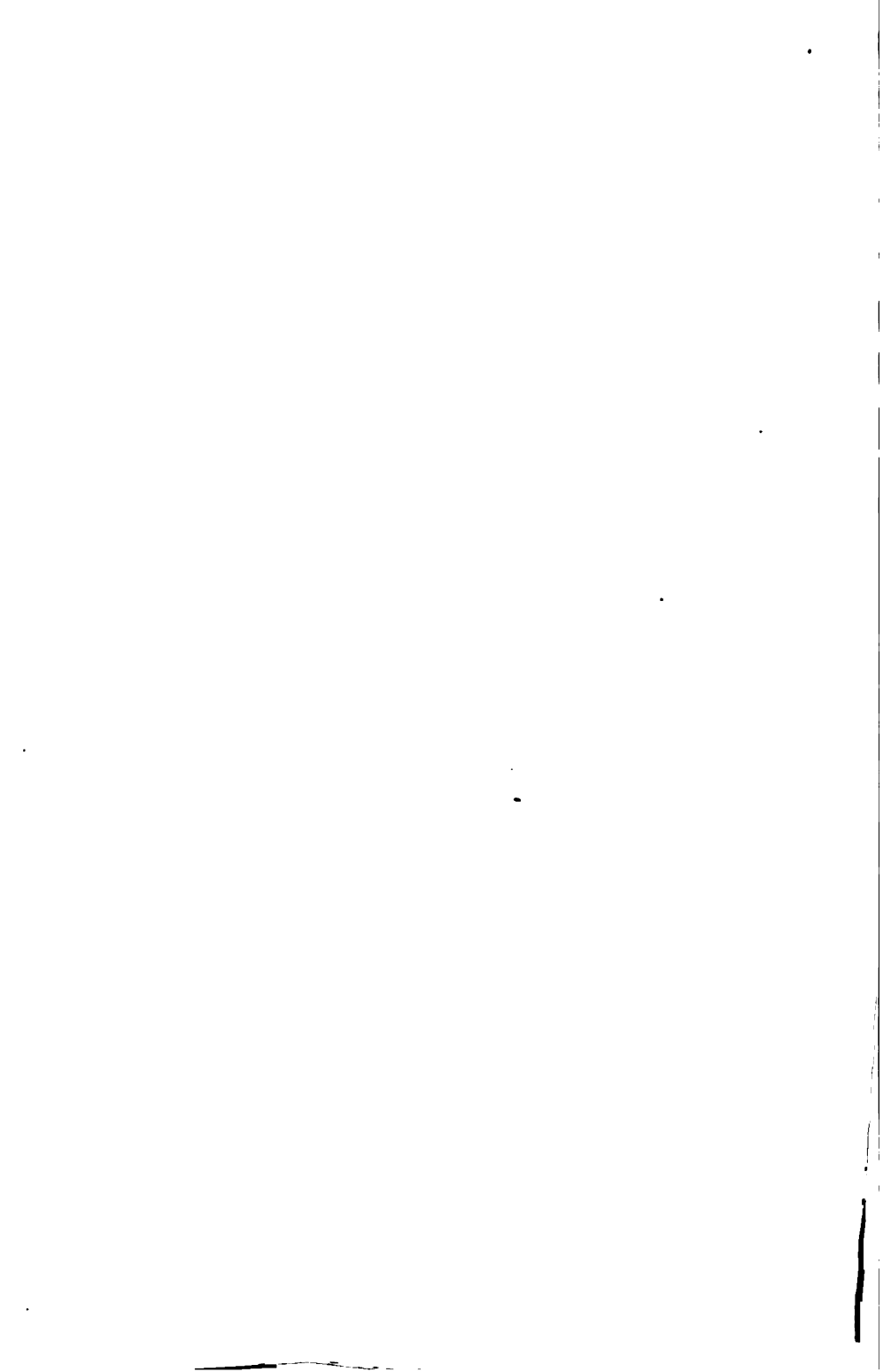
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**Laws, Memorials, and Resolutions**

OF THE

***Territory of Montana,***

PASSED AT THE

**EIGHTH REGULAR SESSION**

OF THE

**LEGISLATIVE ASSEMBLY,**

**HELD AT THE CITY OF VIRGINIA, THE CAPITAL OF SAID TERRITORY,  
COMMENCING JANUARY 5TH, A. D. 1874, AND ENDING  
FEBRUARY 13TH, A. D. 1874.**

TO WHICH ARE PREFIXED

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**PUBLISHED BY AUTHORITY.**

**HELENA (W  
ROBE**

**Y) HERALD.  
INTER.**



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1874.



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DAY, EGBERT, & FIDLAR,  
MANUFACTURERS,  
DAVENPORT, IOWA.

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## CERTIFICATE OF AUTHENTICATION.

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TERRITORY OF MONTANA, }  
SECRETARY'S OFFICE, } ss:

I, JAMES E. CALLAWAY, Secretary of the territory of Montana, do hereby certify that the printed laws, joint memorials, and joint resolutions contained in this volume are true, correct, and full copies of all the enrolled laws, joint memorials, and joint resolutions that were passed at the eighth regular session of the legislative assembly of said territory, begun and held at the city of Virginia, the capital of said territory, on the 5th day of January, A. D. 1874, and ending on the 13th day of February, A. D. 1874, with the exceptions of corrections in orthography and punctuation, and omissions inserted in brackets.

*In Testimony Whereof*, I have hereunto set my hand and affixed the  
[L. s.] great seal of said territory Done at the city of Virginia, the  
capital of said territory of Montana, this 4th day of May, A. D.  
1874.

J. E. CALLAWAY, *Secretary*.

## ERRATA.

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Page 42, Sec. 3, line 5, for "setting" read "sitting."

Page 53, Sec. 14, line 16, for "time" read "term."

Page 53, Sec. 15, line 3, for "time" read "term."

Page 56, Sec. 48, line 7, for "to" read "of."

Page 71, Sec. 1, next last line, for "authentic" read "authenticated."

Page 88, Sec. 6, line 8, after the word "evidence" insert the words "of the failure."

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# CONSTITUTION

## OF THE

# UNITED STATES OF AMERICA.

---

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE I.

Section 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union,

according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Sec. 4. The times, places and manner, of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of

the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such consideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall

not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on the question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;



To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion ;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings ; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another ;

nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state. •

Sec. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war unless actually invaded, or • in such imminent danger as will not admit of delay.

## ARTICLE II.

Section 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole

number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[\*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of president, the person having the the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

"I do solemnly swear ( or affirm ) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States ; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur ; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law ; but the congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

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In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

“I do solemnly swear ( or affirm ) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States ; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur ; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law ; but the congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws are faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

Section 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their office during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [\*between a state and citizens of another state;] between citizens of different states; between citizens of the

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\*Annulled. See 11th Amendment.

same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

#### ARTICLE IV.

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

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Sec. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws are faithfully executed, and shall commission all the officers of the United States.

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No person held to service or labor in one state under the laws thereof, escaping to another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the congress into this Union ; but no new state shall be formed or erected within the jurisdiction of any other state ; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States ; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sec. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion ; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

#### ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress ; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article ; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

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## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

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**AMENDMENTS**

**TO THE**

**CONSTITUTION OF THE UNITED STATES.**

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**ARTICLE I.**

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

**ARTICLE II.**

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

**ARTICLE III.**

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

**ARTICLE IV.**

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

## ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.



## ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before

the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

#### ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XIV.

Sec. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature

thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

Sec. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including the debts incurred for payment of pension and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

ORGANIC ACT  
OF THE  
TERRITORY OF MONTANA.

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(PUBLIC, No. 76.)

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AN ACT to provide a temporary government for the Territory of Montana

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled:*

That all that part of the territory of the United States included within the limits, to wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky Mountains; thence following the crest of the Rocky Mountains northward till its intersection with the Bitter Root Mountains; thence northward along the crest of said Bitter Root Mountains to its intersection with the thirty-ninth degree of longitude

tude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander-in-chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offences

against the laws of said territory, and reprieve for offences against the laws of the United States, until the decision of the president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

Sec. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

Sec. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion

to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties, for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall

be prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

Sec. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by



adjournment, prevent its return, in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said dis-

tricts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law; *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every

term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases the same fees which the clerks of the district courts of Washington territory now receive for similar services.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time deem it advisable to give.

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney and marshal, shall be appointed by the president of the United States,

by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of

the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel, in going to and returning from said sessions, estimated according to the nearest usually traveled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the legislative assembly of the Territory of Montana shall hold its first session at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon

thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter by a majority of the legal votes cast on that question.

Sec. 18. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the time and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said Montana territory as elsewhere within the United States.

Sec. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

Sec. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the Territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Sec. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Sec. 18. *And be it further enacted*, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of north lati-

tude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the Territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE, }  
WASHINGTON, May 28, 1864. }

A true copy :

W. H. HUNTER, *Chief Clerk.*

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(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved May 26, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :*

That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits.

Sec 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt



claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes; *And provided further*, That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

Sec. 3. *And be it further enacted*, That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

Sec. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

Sec. 5. *And be it further enacted*, That for the purpose of receiving the legislative functions of the territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof, begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall

be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly so elected shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as shall enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

Sec. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the Territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall, by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the the courts of said territory; *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

Sec. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

Sec. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

AN ACT regulating the compensation of the members and officers of the Legislative Assemblies of the several territories of the United States and limiting the duration of the sessions of said assemblies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

That the sessions of the legislative assemblies of the several territories of the United States shall be limited to forty days duration.

Sec. 2. That the members of each branch of said legislatures shall receive a compensation of six dollars per day during the sessions herein provided for, and they shall receive such mileage as now provided by law: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive a compensation of ten dollars per day, and that the additional officers of each branch of said legislative assemblies shall consist of one chief clerk, who shall receive a compensation of eight dollars per day, and one assistant clerk, one enrolling clerk, one engrossing clerk, one sergeant-at-arms, one door-keeper, one messenger, and one watchman, who shall each receive a compensation of five dollars per day during the sessions.

Sec. 3. That from and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several territories of the United States shall be three thousand five hundred dollars, and the salaries of the secretaries of said territories shall be two thousand five hundred dollars each.

Sec. 4. That the provisions of this act shall not apply to the District of Columbia: *Provided*, That no law of any territorial legislature shall be made or enforced by which any officer of a territory herein provided for, or the officers or members of any territorial legislature shall be paid any compensation other than that provided by the laws of the United States.

Approved January 23, 1873.

# LAWS OF MONTANA.

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## ADMINISTRATORS AND EXECUTORS.

AN ACT to provide for the more speedy settlement of small estates.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. If it shall appear, at the time of filing the inventory and appraisement, that the estate or a deceased person does not exceed five hundred dollars, the probate judge shall thereupon make an order that the administrator make final settlement of such estate at the end of six months from the date of such order. Notice of the making of such order, and of the time and place of such settlement, shall be forthwith made and published in the same manner and for the same length of time as now required for notice of final settlement. Such notice shall also state that letters testamentary or of administration have been granted, giving the date thereof, and that all persons having claims against the said estate are required to exhibit them for allowance, on or before the day named therein for final settlement, and that if such claims be not thus exhibited, they will be forever barred.

Estates not exceeding \$500 settled in six months.

Notice of order, time, and place of settlement.

Claims against, for allowance.

Sec. 2. The administration of such estates shall in other respects be conducted in the same manner

Manner of administration.

as now provided by law, except that if any part of such estate is real property it shall be sold at the same time and in the same manner as the personal property.

**Final settle-  
ments.** Sec. 3. At the time mentioned in said notice, or such further time as may be granted by the court, the administrator shall make final settlement of such

**Disposition of  
money at set-  
tlement.** estates. If creditors, who have proved their claims, are not present in court to receive their money at the time of making such settlement, the administrator shall pay the same over to the probate judge, taking his receipt therefor, and thereafter the probate judge shall pay over such sum or sums to the proper claimant or claimants, upon demand.

**Probate judge  
may extend  
time for mak-  
ing final settle-  
ment.** Sec. 4. For good cause shown the probate judge may extend the time for making such final settlement, but in no case shall it be extended beyond one year from the date of issuance of letters of administration in such estates.

**Repealing  
clause.** Sec. 5. That all acts and parts of acts in conflict with [this] act be, and the same are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved Feb. 13th, 1874.

#### APPORTIONMENT.

A BILL for an Act apportioning the members of the Legislative Assembly, and prescribing the time of their election:

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

**When Legisla-  
ture to con-  
vene.** Section 1. That the next session of the Legislative Assembly of the Territory of Montana shall convene at the seat of government of said territory on the first Monday of January, in the year one thousand eight hundred and seventy-six, at noon of said day, and biennially thereafter.

Sec. 2. The Legislative Assembly of the Territory shall consist of thirteen members of the Council, and twenty-six members of the House of Representatives. Number of members.

Sec. 3. The members of the Council shall be apportioned to the several counties of the Territory as follows: Apportionment of the Council.

To the county of Madison, one member.

To the counties of Madison and Beaverhead, jointly, one member.

To the county of Deer Lodge, two members.

To the county of Missoula, one member.

To the counties of Deer Lodge and Missoula, jointly, one member.

To the county of Lewis and Clarke, three members.

To the county of Jefferson, one member.

To the county of Gallatin, one member.

To the counties of Jefferson and Gallatin, jointly, one member.

To the counties of Meagher and Choteau, jointly, one member.

Sec. 4. Of the said members of the Council there shall be elected at the general election in the year one thousand eight hundred and seventy-four: Election of members of the Council.

In the county of Deer Lodge, one member.

In the counties of Deer Lodge and Missoula, jointly, one member.

In the county of Jefferson, one member.

In the counties of Jefferson and Gallatin, jointly, one member.

In the counties of Meagher and Choteau, jointly, one member.

And at the general election in the year one thousand eight hundred and seventy-five there shall be elected:

In the county of Madison, one member.

In the counties of Madison and Beaverhead, jointly, one member.

In the county of Deer Lodge, one member.

In the county of Missoula, one member.

In the county of Lewis and Clarke, three members.

In the county of Gallatin, one member.

Apportionment  
of the House.

Sec. 5. The members of the House of Representatives shall be apportioned to the several counties as follows:

To the county of Madison, four members.

To the county of Beaverhead, one member.

To the county of Deer Lodge, five members.

To the county of Missoula, three members.

To the county of Lewis and Clarke, five members.

To the county of Jefferson, two members.

To the county of Gallatin, two members.

To the counties of Jefferson and Gallatin, jointly, one member.

To the county of Meagher, two members.

To the county of Choteau, one member.

Sec. 6. The members of the House of Representatives shall be elected at the general election in the year one thousand eight hundred and seventy-four.

Elections to fill  
vacancy in  
Council or  
House.

Sec. 7. When any vacancy shall hereafter occur in the office of member of the Council or House of Representatives, either by death, removal, resignation, expiration of official term, or other cause, an election shall be held to supply the same, as provided by law.

Sec. 8. All acts and parts of acts, in conflict with this act, are hereby repealed.

Sec. 9. This act shall be in force from and after its passage.

APPROPRIATION.

AN ACT to appropriate certain moneys in the sinking fund to defray the expenses of the Montana penitentiary.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the sum of ten thousand dollars, now in the treasury of the territory, belonging to the sinking fund, be and the same is hereby appropriated to the expenses of the Montana penitentiary, for the year 1874, the same to be paid out upon the warrants of the territorial auditor, issued as prescribed in section number eighteen of an act entitled, "An Act to regulate and govern the Montana penitentiary," approved May 6th, 1873.

Appropriation for penitentiary.

Same how paid out.

Sec. 2. No territorial warrants shall be advertised and sold, as provided in said section eighteen, until the moneys so appropriated from the said sinking fund shall be exhausted.

Warrants to be advertised and sold.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 18th, 1874.

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AUDITOR.

AN ACT defining the duties of Territorial Auditor.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That on the first day of January, of each year, hereafter, that it shall be the duty of the territorial auditor to cause to be published (500) five hundred copies of the auditor's and treasurer's reports in pamphlet form for each preceding year;

Territorial Auditor to publish annual report of auditor and treasurer.



and that the sum of three hundred and fifty dollars, or so much thereof as may be necessary, is hereby appropriated for the publication of such reports for the year ending December 31st, 1874, and that the auditor is hereby authorized to draw his warrant on the treasurer for the same, out of any money not otherwise appropriated.

Auditor to draw warrant to pay expenses of report.

Sec. 2. And that it shall be the duty of the territorial auditor thereafter to cause to be printed the reports of the auditor and treasurer in the same manner as provided for other printing in section two, of "An Act for Public Printing."

Reports of same how printed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February, 13th, 1874.

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#### BASTARDS.

AN ACT for the support and maintenance of illegitimate children.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That on complaint to any justice of the peace, in this territory, by any unmarried woman, resident herein, who shall hereafter be delivered of a bastard child, or being pregnant with a child, which, if born alive, may be a bastard, accusing on oath or affirmation any person of being the father of said child, the justice shall take such accusation in writing, and thereupon issue his warrant directed to the sheriff or constable of any county in this territory, commanding him forthwith to bring such accused person before said justice, to answer such complaint; and on return of such warrant, the

On complaint of mother of bastard accused to be arrested.

justice in the presence of the accused person, shall examine the complaint [complainant] under oath respecting the cause of her complaint, and such accused person shall be allowed to ask the complaint [complainant] when under oath, any question that he may think necessary for his justification; all of which questions and answers, together with every other part of the examination, shall be reduced to writing by the justice of the peace; and if on such examination, the party accused shall pay, or secure to be paid to the complaint [complainant] such sum or sums of money, or property, as she may agree to receive in full satisfaction, and shall further give bond to the board of county commissioners of the county in which said complaint [complainant] shall reside, and their successors in office, conditioned to save such county free from all charges towards the maintenance of such child, then and in that case the justice shall discharge the party accused out of custody, on his paying the costs of the prosecution: *Provided*, That the agreement aforesaid shall be made or acknowledged by both parties in the presence of the justice, who shall thereupon enter a memorandum of the same upon his docket.

Proceeding on examination in such case.

Right of the accused to question the complainant.

Examination reduced to writing.

Accused may settle with complainant, give bond and be released.

Justice to make memorandum of settlement.

Sec. 2. That when any woman has a bastard child and neglects to bring a suit for its maintenance, or commence a suit and fail to prosecute to final judgment, the county commissioners in any county interested in the support of any such bastard child when sufficient security is not offered to save the county from expense, may bring a suit in behalf of the county, against him who is accused of begetting such child, or may take up and prosecute a suit began by the mother of the child.

If mother of bastard neglects to bring suit, county commissioners may prosecute putative father.

Sec. 3. That in case such accused person does not comply with the provisions in the first section of this act contained, ' ' whom such com-

When justice to bind over putative father to district court.

Recognizance of accused.

When the accused committed to jail.

When bond to be renewed.

Trial of suit when issue joined.

If woman convicted of crime disqualified as witness.

Credibility of woman as witness.

plaint was made shall bind such person in a recognizance to appear at the next setting of the district court of the district in which said county is situated, with sufficient security in a sum not less than five hundred dollars, nor more than one thousand dollars, for the benefit of the county in which such child shall be born, to answer to such accusation and to abide the order of the court thereon, and on neglect or refusal to find such security, the justice shall cause him to be committed to the jail of the county, there to be held to answer such complaint.

Sec. 4. That if at the time of such court, the woman be not delivered or unable to attend, the court shall order the renewal of the bonds of recognizance that the accused person shall be forthcoming at the next sitting of the said court after the birth of the child, at which the mother of said child shall be able to attend, and the continuance of such bonds shall be entered by order of said court, unless the security shall object thereto, and shall have the same force and effect as a recognizance taken in court for that purpose.

Sec. 5. That when such accused person shall plead not guilty to such charge before the court to which he is recognized, the court shall order the issue to be tried by a jury, and at the trial of such issue the examination before the justice shall be given in evidence, and the mother of the bastard child shall be admitted as a competent witness and the credibility be left to the jury; *Provided, always,* That

no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime which would by law disqualify her from being a witness in any other case, and on the trial of the issue the jury shall in behalf of the man accused, take into consideration any want of credibility in the mother of the bastard child, also any variation in her testimony before the justice and before the jury, and also any

other confession of her, at any time, which does not agree with her testimony, or any other proofs or pleas made and produced on behalf of such accused person.

Sec. 6. That in case the jury find the defendant guilty, or such accused person before the trial shall confess in court that the accusation is true, he shall be judged the reputed father of such child, and shall stand charged with the maintenance thereof, in such a sum or sums as the court may order and direct, with payment of costs of prosecution; and the court shall require the reputed father to give security to perform the aforesaid order, and in case the reputed father shall neglect or refuse to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the county there to remain until he shall comply with the order of the court: *Provided*, That such putative father confined in prison for not complying with the sentence and order of the court, as in this section provided, shall be entitled to the benefit of the prison rules, and of sections 389 and 390 of the act entitled, "An Act to regulate proceedings in criminal cases in the courts of justice in the Territory of Montana," approved January 12th, 1872, as to the same with which he is charged and the costs.

Accused deemed guilty, to maintain child

Bond of putative father when adjudged guilty.

Failure of putative father to give bond.

Putative father entitled to benefit of prison rules, &c., and how released.

Sec. 7. This act shall take effect and be in force from and after its passage.

Approved, February 13th, 1874.

#### CAPITAL LAW.

AN ACT to change the seat of government of the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the seat of government of the Territory of Montana be, and the same is hereby, Seat of government changed.

changed from the city of Virginia, in the county of Madison, to the town of Helena, in the county of Lewis and Clark, upon approval hereof as herein-after provided.

Act voted on at  
general elec-  
tion.

Sec. 2. That this act shall be known as the Capital Law, and at the general election in this territory, to be held in the year one thousand eight hundred and seventy-four, it shall be submitted to the qualified electors of the Territory of Montana, who are duly qualified to vote thereat, in the manner and form herein prescribed.

Manner of vot-  
ing.

Sec. 3. Any elector desiring to vote thereon, shall write or print, or cause to be written or printed, upon the ballot which he shall cast at said election, the words "Capital Law approved," or "Capital Law disapproved," and if upon return and final count of the votes, it shall appear that a greater number of votes were cast reading "Capital Law approved" than were cast reading "Capital Law disapproved," then, and in that case, it shall be taken, deemed and held that this law has been duly approved, and that the seat of government of the Territory of Montana has been in due form of law removed to the said town of Helena, and the governor shall make public proclamation thereof; but if more votes shall have been cast reading "Capital Law disapproved" than were cast reading "Capital Law approved" then, and in that case, it shall be deemed, taken and held that section one of this act has been disapproved, and that the seat of government of the Territory of Montana has not been removed from said city of Virginia.

When seat of  
government  
deemed remov-  
ed.

Who entitled to  
vote.

Sec. 4. Every qualified elector of the Territory of Montana shall be entitled to vote upon the approval or disapproval of the Capital Law in the form aforesaid; but he shall cast but one ballot at such election, and if he shall desire to vote for any candidate or candidates, and upon the said Capital

Law, or any other question in due form submitted to him for his suffrage, or for any of them, his said ballot shall contain a complete list of what he desires to vote for or he shall be precluded from further voting at such election.

What ballot to contain.

Sec. 5. That the votes cast for the approval or disapproval of this law shall be cast, counted, canvassed and returned in the same manner, and by the same persons and officers, and in the same form and way, as shall the votes for delegate in congress.

Canvass of votes.

Sec. 6. If in the manner aforesaid this act shall be approved and the capital be so removed to said town of Helena, then, and in that case, it shall be the duty of the governor and other executive officers to cause the various executive offices and public archives of the territory [to] be removed to the said town of Helena.

Duty of governor and other officers to remove archives.

Sec. 7. No person shall be precluded from voting upon the question of the approval or disapproval hereof, who is a qualified elector of the territory, by reason of the fact that he may offer to vote at some precinct other than where he may reside, who will take an oath before one or more of the judges of the election, that he is such elector and has not before voted thereon at said election.

Elector may vote out of precinct where he resides.

Sec. 8. This act is hereby declared a public act, and its passage and publication in one newspaper, in this territory, of general circulation therein, before the first day of July, in the year one thousand eight hundred and seventy-four, shall be a sufficient notice to the electors of said territory that they will be called upon to vote for the approval or disapproval thereof, and no election or vote thereon shall be deemed invalid for want of further notice, but in addition thereto it shall be the duty of the respective county officers charged with issuing election notices and posting the same, to include therein in addition to what is now required by law, a notice

Act declared public act.

that at said election they will also be called upon to vote for the approval or disapproval of the Capital Law.

**Repealing clause.** Sec. 9. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved February 11, 1874.

# CIVIL PRACTICE ACT.

AN ACT to amend sections 56, 139, 140, 155, and 156 of an act approved January 12, 1872, entitled An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

**Sections amended.** Section 1. That sections fifty-six, one hundred and thirty-nine, one hundred and forty, one hundred and fifty-five, and one hundred and fifty-six of an act approved January 12, 1872, entitled An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, be amended to read as follows :

**As to the answer of defendant.** "Sec. 56. The answer of the defendant shall contain a general or specific denial of each allegation of the complaint intended to be controverted by the defendant, and may contain a statement of any matter in avoidance, or a counter claim constituting a defence, or the subject matter of cross-complaint, which may entitle the defendant to relief against the plaintiff alone, or against a defendant or co-defendant."

**May be general or specific.**

That section one hundred and thirty-nine of said act be amended to read as follows :

"Sec. 139. Action may be commenced and writs <sup>Attachment when debt not due.</sup> of attachment issued upon any debt for the payment of money or specific property, before the same shall have become due, when it shall appear by the affidavit, in addition to what is required in section one hundred and thirty-seven of this act (except the <sup>Affidavit in such case.</sup> allegation that the debt is due), *First*, That the defendant is leaving, or is about to leave, this territory, taking with him or her property, moneys, or other effects which might be subjected to the payment of the debt, for the purpose of defrauding his creditors; or, *Second*, That the defendant is disposing of his property, or is about to dispose of his property, subject to execution, for the purpose of defrauding his creditors: *Provided*, That any judgment obtained under the provisions of this section shall be with a rebatement of the interest from the time said judgment is obtained until the time at which said debt would have become due; *and provided, also*, That the defendant may, by plea, put in issue the matter alleged in the affidavit herein required, and if the plaintiff fail to substantiate some one of the causes required to be alleged in said affidavit, the suit for debt or debts not due shall abate." <sup>Rebate of interest.</sup>

That section one hundred and forty of the said act be amended to read as follows:

"Sec. 140. The writ shall be directed to the sheriff of any county in which property of such defendant may be, and require him to attach and <sup>Writ directed to sheriff of any county where defendant has property.</sup> safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as be sufficient to satisfy the plaintiff's demand, the amount of which shall be stated in conformity with the complaint, unless the defendant deposit the amount or give him security by the undertaking of at least two sufficient sureties, <sup>Defendant may give security.</sup> in an amount sufficient to satisfy such demand besides costs, or in an amount equal to the value



of the property which has been or is about to be attached; in which case to take such undertaking. Several writs of attachment may be issued at the same time to the sheriffs of the different counties: *Provided*, That in case one attachment shall be returned showing sufficient property attached, or undertaking given, to secure the plaintiff's demand with costs, all other writs of attachment issued in the same action may, by order of the judge of the court issuing the said writs, be returned to the proper clerk's office, and all levies made by virtue thereof released."

That section one hundred and fifty-five of said act be amended as follows:

Sheriff not to release attachment unless defendant give undertaking.

Requisites of undertaking.

Liability of sheriff.

"Sec. 155. Before releasing said attached property, as aforesaid, the sheriff shall acquire an undertaking, executed by the defendant, and at least two sureties, residents and freeholders or householders in the county, to the effect that in case the plaintiff recover judgment in the action, defendant will, on demand, re-deliver such attached property to the proper officer, to be applied to the payment of the judgment, and that in default thereof the defendant and sureties will pay to the plaintiff an amount to be stated in the undertaking double the amount of the plaintiff's demand; and if any sheriff shall release any property held by him by virtue of a writ of attachment without taking such bond, or if he shall take an insufficient bond, he shall be liable for the debt secured by such attachment, and all damage incurred by the plaintiff."

That section number one hundred and fifty-six of said act be amended to read as follows:

Defendant may move to discharge attachment.

Grounds of motion.

"Sec. 156. The defendant may, also, at any time before judgment, apply, on motion, upon reasonable notice to the plaintiff, to the court in which the action was brought, or to the judge thereof, for a discharge of the attachment on the ground that

the writ was improperly or illegally issued, and the judge or court shall (if the cause be sufficient) discharge the same, and order the property held by virtue thereof to be released."

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

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#### CIVIL PRACTICE ACT.

AN ACT to amend An Act to regulate proceedings in civil cases in the courts of justice in the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. When the testimony of any non-resident witness or witnesses shall be necessary in any civil cause depending in any court of law or equity in this territory, it shall be lawful for the party wishing to use the same, on giving to the adverse party or his attorney five days previous notice, together with a copy of the interrogatories intended to be put to such witness or witnesses, to sue out from the proper clerk's office a commission under the seal of the court, to be directed to any person as commissioner, or to any judge or justice of the peace, clerk of a court of record, or notary public of the county or city in which such witness or witnesses may reside, authorizing and requiring him to cause such witness or witnesses to come before him at such place and time as he may designate and appoint, and faithfully to take his, her, or their deposition or depositions upon all such interrogations as may be enclosed with, or attached to, such communication, both on the part of the plaintiff and the defendant and none others, and to certify the same when taken, together

Deposition of non-resident witnesses, how taken.

with the said commission and interrogations into the court in which such cause may be depending, with the least possible delay.

Sec. 2. Every examination and deposition which shall be taken and returned according to the provisions of this act, may be read in evidence in the cause in which it shall be taken, with the like effect as if such witness had been present and examined by parol in open court on the trial or hearing thereof.

Sec. 3. All depositions taken in pursuance hereof, when returned into court, may be read by either party on the trial of the cases to which they relate.

Sec. 4. Such depositions, when taken as above provided, shall be certified to the officer taking the deposition to certify, and return same to clerk in sealed envelope, &c. Sections 482, 483 and 484 of chapter six of the Civil Practice Act, are hereby repealed.

Sec. 5. To render an appeal effectual for any purpose in any case, a written undertaking shall be executed upon the part of the appellant, by at least two sureties, to the effect that the appellant will prosecute his appeal with effect, and will pay all damages and costs which may be awarded against him on the dismissal or trial of the appeal, not exceeding three hundred dollars, or that sum shall be deposited with the clerk with whom the judgment or order was entered, to abide the result of the appeal; such undertaking shall be filed, or such deposit made, with the clerk within five (5) days after the notice of appeal is filed.

Sec. 6. On all cases where notices of intention to move for a new trial in accordance with the provisions of chapter ten of the civil practice act, entitled "new trial," shall have been given, the judge of the court, in which the trial shall have been had,

may, upon such terms as in his opinion shall be just, make an order staying proceedings in the cases until the motion for new trial shall have been disposed of.

Sec. 7. After the lapse of five years from the entry of judgment, an execution can only be issued by leave of the court, upon motion, with personal notice to the adverse party, unless he be absent, or non-resident, or can not be found, to make such service, in which case service may be made by publication or in such other manner as the court shall direct; such leave shall not be given unless it be established by the oath of the party, or other satisfactory proof that the judgment, or some part thereof, remains unsatisfied and due; but the leave shall not be necessary when the execution has been issued on the judgment within the five years, and returned unsatisfied in whole or in part.

Execution not to issue after five years from judgment, except on notice to adverse party and leave of court.

When leave granted.

When leave unnecessary.

Sec. 8. In no case shall the fees of more than four witnesses be taxed against the party against whom judgment shall be given for costs, unless the courts shall certify that more than four witnesses were really necessary, in which case the clerk shall tax the costs of as many witnesses as the court shall so certify.

Allowance of costs for witnesses limited.

Sec. 9. Section 557 of the Civil Practice Act, is hereby amended by adding thereto as follows: *Provided*, however, that no allowance or charge shall be made for the attendance of witnesses, unless the witness shall make affidavit before the clerk of the number of days he or she actually attended, and of the distance he or she shall have traveled, and that such attendance was at the instance of one or both parties, or his, her, or their attorney.

Section amended.

Witness must make affidavit of attendance before clerk.

Sec. 10. In all cases, after final judgment, it shall be lawful for the clerk to make out a tax bill of costs against the party incurring said costs, and certify the same under the seal of the court, which,

Clerk may make out fee-bill after final judgment.

Sheriff to collect fee-bill as in case of execution.

being delivered to the sheriff of the proper county, he shall demand payment thereof from the person therein charged, and if payment shall not be made within twenty days after such demand, the sheriff shall levy the same on the goods and chattels, lands and tenements of the person so chargeable, and proceed thereon in all things as on a writ of execution.

Party liable to pay costs to have itemized account of same.

Sec. 11. And to the end that all persons chargeable with fees due to any sheriff, clerk, or any officer of any court in this territory, may certainly know for what the same is chargeable, none of the fees of any such officers shall be payable to any such officer until an itemized account of the same shall have been presented to the person chargeable with the same, and signed by the officer to whom the same are payable, or until a fee-bill shall have been issued by the clerk as above provided.

Section amended.

Either party may have whole jury sworn and examine as to competency.

Sec. 12. Section 197, of chapter four, of the Civil Practice Act, is hereby amended by adding thereto:

"Either party shall have the right to have the whole jury sworn to answer questions as to their competency, in the first instance, and may examine them on any of the matters of challenge for cause.

Section 234 amended.

Sec. 13. Section 234, of chapter ten, of the Civil Practice Act, is hereby amended by striking out all after the word "affidavit" on third line thereof.

Section amended.

Sec. 14. Section 235, of chapter ten, of the Civil Practice Act, is hereby amended so as to read as follows: Section 235. The party intending to move for a new trial, shall, within three days after the rendition of the verdict of the jury, or within ten

Time in which notice must be given in moving for new trial.

days after receiving written notice of the filing of the report of referee or decision of the court, if rendered or decided during the term, and if rendered

Requisites of notice.

or filed in vacation, within ten days after receiving written notice of the filing thereof, shall give by himself or his counsel the points in writing, particularly specifying the grounds of such motion, and

shall furnish the judge with a copy of the same, and all proceedings shall thereupon be stayed until such motion can be heard by the court; *Provided*, that the same be heard at the same time at which the trial is had. On the agreement (argument) reference may be made to the pleadings, evidence and minutes of the court, and all papers used or introduced in the case. If the application be made upon affidavits filed, the adverse party may use counter affidavits at the hearing; any counter affidavits shall be filed at least one day previous to the hearing. The application for a new trial shall be made at the earliest practicable period, after filing the affidavits or notice of the motion. Exceptions taken to opinions or decisions of the district court, overruling motions in arrest of judgment, and motions for new trials shall be allowed, and the party excepting may assign for error any opinion so excepted to.

Proceedings stayed until motion heard, but must be heard at same time of trial.

Argument of motion.

Use of affidavits on hearing motion.

Exceptions and assignments of error.

Sec. 15. All bills of exceptions shall be reduced to form (unless noted by the clerk) and signed during (the) time in which the same is tried, except in cases where the counsel consent, or the judge, by an entry on the record, direct that it may be prepared in vacation, and signed *nunc pro tunc*. The bill of exceptions must be signed by the judge who tried the cause, and if he has inadvertently omitted to sign a bill of exceptions, he may, on motion, be permitted to do so, although his term of office has expired or said office has otherwise become vacant.

Exceptions, how taken and preserved.

Exceptions signed by the judge.

Sec. 16. When a motion for new trial is heard and decided upon the minutes of the judge, and an appeal is taken from the decision, a bill of exceptions must be settled in the usual form, upon which the agreement (argument) of the appeal must be had.

When appeal taken on decision from judges minutes on motion for new trial, exceptions must be settled.

Sec. 17. When any sheriff, constable, or coroner serves more than one process or notice in the same direction, not requiring more than one jour-

Officer serving more than one service in same direction, to charge mileage as one journey.

ney from his office, he shall charge for and receive mileage only for the most distant service.

Costs on judgment according to law.

Sec. 18. Upon the dismissal or other disposition of an action in which the court has jurisdiction of the subject matter of the action, it shall be the duty (of) the court to render such judgment for costs as is according to law.

Costs in probate court taxed in favor of prevailing party.

Sec. 19. In all cases adjudicated in the probate court, the costs shall follow the judgment, without reference to the amount or value of the property in controversy, and such costs shall be taxed by said court in favor of the prevailing party.

Sections amended.

Sec. 20. That sections 34, 36, 45, 48, 138, 253, and 271, of an act entitled an "act to regulate proceedings in civil cases in courts of justice of the territory of Montana," be amended so as to read as follows:

Defendant served where found. Who may serve summons.

Sec. 34. The summons shall be served by the sheriff of the county where the defendant is found, or by his deputy, or by a person specially appointed by him, or appointed by a judge of the court in which the action is brought, or by any white male citizen of the United States over twenty-one years of age, who is competent to be a witness on the trial of the action, except as hereinafter provided. When summons is served by the sheriff or his deputy, it shall be returned with the certificate or affidavit of the officer of its service, to the office of clerk from which the summons issued. When the summons is served by any other person as before provided, it shall be returned to the office of the clerk from which it issued, with the affidavit of such person of its service.

Return of the summons after service.

Manner in which summons shall be executed.

Sec. 36. A summons shall be executed, except as otherwise provided by law, as follows: First, by reading the writ to the defendant; or, second, by delivering to him a copy of the writ; or, third, by leaving a copy of the writ at the usual place of abode

of the defendant, with some member of his family over the age of fifteen years; or, fourth, when there are several defendants residents of the same county, by delivering to the defendant who shall be first summoned a copy of the writ, and to such as may be subsequently summoned, a copy of the writ, or by leaving such copy at the usual place of abode of the defendant, with some member of his family over the age of fifteen years. If the suit be (brought) On a corporation. against a corporation, service shall be had by delivering a copy of the writ to the president, or other head of the corporation, or to the secretary, cashier, or managing agent thereof.

If suit be against a foreign corporation or a non-resident joint stock company, or association doing On foreign corporation. business within this territory, service shall be had by delivering a copy of the writ to an agent, cashier, or secretary thereof.

If the suit be against a minor under the age of fourteen years, service shall be had by delivering a copy of the writ to such minor, personally, On a minor under fourteen years of age. and also to his or her father, mother, or guardian, or if there be none in the territory, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed.

If the suit be against a person judicially declared to be of an unsound mind, or incapable of conducting his (or her) own affairs, and for whom a guardian has been appointed, service shall be had by delivering a copy of the writ to such guardian. On person of unsound mind. Copies of papers attested may be furnished by the clerk to adverse parties, and the charges therefor taxed as costs in the case. Copies of papers to adverse party.

Sec. 45. From the time of the serving of a summons in a civil action, the court shall be deemed to have acquired jurisdiction and to have control of all When court deemed to acquire jurisdiction. the subsequent proceedings. A voluntary appear-



ance of a defendant shall be equivalent to personal service of the summons upon him. If any plaintiff shall allege that there are, or that he verily believes that there are, persons interested in the subject matter of the complaint, whose names he cannot insert therein because they are unknown to him, and shall describe the interest of such persons and how derived, so far as his knowledge extends, the court, or the judge thereof, in vacation, shall make an order, as in case of non-residents, of publication of the summons, reciting, moreover, the substance of the allegations of the complaint in relation to the interest of such unknown parties, and after the completion of service by such publication, the court shall have jurisdiction of such person, and any judgment rendered in the action.

The action shall apply to and conclude such persons with respect to such interest in the subject matter of the action.

Sec. 48. The only pleading on the part of the plaintiff shall be the complaint, demurrer, or replication to the defendant's answer; and the only pleadings on the part of the defendant shall be a demurrer to the complaint, or a demurrer to the replication, or an answer to the complaint. The demurrer or answer to the defendant, and the demurrer or replication of the plaintiff shall be filed with the clerk.

Sec. 138. Before issuing the writ the clerk shall require a written undertaking on the part of the plaintiff, with two or more sufficient sureties, to be approved by the clerk, in a sum not less than the amount claimed by the plaintiff, to the effect that if the defendant recover judgment, or if the court shall finally decide (that) the plaintiff was not entitled to an attachment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages he may sustain by reason of the wrongful su-

Voluntary appearance equivalent to personal service.

Unknown parties in interest may be brought into court by publication.

Interests of such persons, how affected.

Pleadings on part of plaintiff

Pleadings on part of defendant.

Clerk shall require written undertaking (in attachment)

Requisites of the undertaking.

ing out of the attachment, not exceeding the sum specified in the undertaking.

Said sureties may be required to justify before the clerk of the court, to the effect that each for himself is worth the amount specified in the undertaking, over and above his debts, liabilities and property by law exempt from execution in the Territory of Montana. *Provided*, That when the amount claimed by the plaintiff shall be one thousand dollars, or any sum under one thousand dollars, the said undertaking shall be in a sum not less than double the amount claimed.

*Justification of sureties.*

*If amount claimed be \$1,000 or less bond to be double.*

Sec. 253. The execution may be made returnable at any time not less than ten nor more than sixty days after its receipt by the sheriff to the clerk with whom the judgment roll is filed. When the execution shall have been returned it shall be the duty of the clerk to attach the same to the judgment roll. If any real estate be levied upon, the clerk shall record the return to the execution at large, and certify the same under his hand as true copies, in a book to be called the "execution book," which book shall be indexed with the names of the plaintiffs and defendants in execution alphabetically arranged and kept open at all times during office hours for the inspection of the public without charge, and shall be evidence of the contents of the originals, whenever they, or any part thereof, may be destroyed, lost or mutilated.

*Return of execution.*

*Clerk to attach execution to judgment when returned.*

*If real estate levied on, clerk to record return in "execution book."*

*"Execution book," how kept*

Sec. 271. Before the sale of property on execution, notice shall be given as follows: First, in case of perishable property by posting written notice of the time and place of sale in three public places of the township or city where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property. Second, in case of other personal property

*Notice of sale of personal property under execution.*

Notice of sale  
of real estate  
under execu-  
tion.

by posting a similar notice in three public places in the township or city where the sale is to take place, not less than five nor more than ten days successively. Third, in case of real property, by posting a similar notice, particularly describing the property, for twenty days successively, in three public places of the township or city where the property is situated, and also where the property is to be sold, and publishing a brief notice of such sale once a week for the same period in some newspaper published in the county, if there be one, which notice shall be substantially as follows:

### SHERIFF'S SALE.

JOHN DOE, }  
vs.  
RICHARD ROE. }

Form of notice. To be sold at sheriff's sale on the — day of —, 187—, at — [Here insert a brief description of property.]

Signed,

JOHN DOE,  
Sheriff.

Penalty if sheriff not follow form.

Any sheriff publishing a notice not in accordance with this form, and which shall cost more than such a notice, shall not be entitled to any costs for the publication of the same, but shall be personally liable for the payment of such publication.

"Attachment book," kept in recorder's office — entries in same.

Sec. 21. There shall be kept in the recorder's office of the county recorder of each county, a book called "attachment book," in which shall be entered by such recorder, in alphabetical form, the names of any person or persons against whom any writ or notice of attachment has been filed in his office; there shall also be entered in said book the time such writ was filed. Such entries shall be made under appropriate heads for that purpose. For making such entry the recorder shall receive twenty-five cents, to be paid by the plaintiff in the action,

Fees of clerk  
th. refor.

and taxed and allowed to him as other costs and disbursements in the action.

Approved February 13th, 1874.

#### CRIMINAL PRACTICE ACT.

AN ACT to amend an act entitled "An Act to regulate proceedings in criminal cases in the courts of justice in the Territory of Montana," approved January 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section six of chapter one, of an act entitled "An Act to regulate proceedings in criminal cases in the Territory of Montana," approved January 12th, 1872, be amended so as to read as follows: Section amended

Sec. 6. Justices of the peace shall have jurisdiction of all misdemeanors committed in the county in which they may be qualified to act, when the punishment therefor does not exceed a fine of one hundred dollars, or imprisonment in the county jail six months, or by both such fine and imprisonment. Jurisdiction of justices in misdemeanors.  
 The probate court shall have jurisdiction of all misdemeanors for the county in which the judge thereof shall be qualified to act, when the punishment therefor does not exceed a fine of five hundred dollars, or imprisonment for six months in the county jail, or by both such fine and imprisonment. Jurisdiction of probate court in misdemeanors.  
 The district court shall have jurisdiction of all offences not cognizable in the probate or justice of the peace courts, and of all common law offences. Jurisdiction of district court in criminal cases.

Sec. 2. That all acts and parts of acts in conflict with this act, be and the same are hereby repealed. Acts repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

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CRIMINAL PRACTICE ACT.

AN ACT to amend section 422 of the "Criminal Practice Act," passed January 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section  
amended.

Section 1. That section 422 of an act entitled, "An act to regulate proceedings in criminal cases in the courts of justice in the territory of Montana," approved January 12th, 1872, be so amended as to read as follows :

Witness in  
criminal case  
make affidavit  
to fees.

Sec. 422. Witnesses in criminal cases shall make out a bill under oath, of the fees to which they are entitled in each case, and file the same with the clerk of the district court, and the county shall pay such clerk for the services in this and the preceding section. *Provided*, that no witness shall receive fees in any more than one criminal case on the same day during the same term of court.

To receive fees  
only in one case  
on same day.

Approved February 12th, 1874.

## CRIMINAL LAWS.

AN ACT to regulate proceedings in cases of certain misdemeanors.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. No justice of the peace or other magistrate in this territory, shall acquire jurisdiction over the person of a defendant, to finally try such defendant, by reason of the complaint of such defendant made against himself, nor by reason of any complaint which such defendant may procure to be made against himself.

Magistrate not to acquire jurisdiction in misdemeanor when defendant accuses self.

Sec. 2. This act shall be in force from and after its passage.

Approved February 3d, 1874.

## CRIMINAL LAWS.

AN ACT defining certain offences therein named, and providing a punishment therefor.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. If any person within this territory, at any election, when the question of the location of the seat of government is by law submitted to the electors for their approval or rejection, shall offer to vote thereon, knowing that he is not qualified so to vote, according to the law now in force, defining the qualifications of electors in this territory, or who shall have voted once before at said election thereon, the person or persons so offering to vote thereon, whether his vote is received or rejected,

Penalty for illegal voting at election when question of locating seat of government at issue.

shall be deemed guilty of a misdemeanor, and being thereof convicted, shall be punished by a fine not less than one hundred nor more than one thousand dollars, and by imprisonment, not less than one nor more than twelve months, in the discretion of the court.

Penalty for receiving, returning or certifying, &c., illegal vote.

Sec. 2. If any judge or clerk of election, or county clerk, or commissioner, or any other officer or person charged by the laws now in force with any duty, at such election, shall knowingly receive the vote of any person not qualified to vote at such election, or shall make any forged, false, or fraudulent returns, or certify to such returns, or shall thereafter alter any true returns, or wilfully miscount, change, alter or vary, any poll book, list, vote, or return, or shall certify to any fact not true, or shall do any other thing whatever to defeat the actual and true return and count of all lawful votes cast on that question, and none others than such lawful votes, or shall do or perform any act whatever, with the intent, and for the purpose of procuring any other person to make any false return, or count, or certificate, every such person so offending shall be deemed guilty of a felony, and being thereof convicted, shall be punished by imprisonment in the territorial penitentiary, not less than one year, nor more than three years, and shall be forever thereafter incapable of holding any office of trust, honor, or profit, in the territory of Montana.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 12th, 1874.

COUNTY COMMISSIONERS.

AN ACT to amend sections 23 and 25 of chapter XXI. of "An act re-enacting, codifying and revising the general and permanent laws of Montana Territory," approved January 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section twenty-three of chapter twenty-one of an act revising, re-enacting and codifying the general and permanent laws of Montana territory, approved January 12th, 1872, be amended to read as follows: Section amended.

Sec. 23. No account shall be allowed by the board of county commissioners, unless the same be made out in separate items, and the nature of each item stated; nor unless the same be verified by affidavit, showing that the said account is just and wholly unpaid; and if the same be for official services for which no specified fees are fixed by law, the time actually and necessarily devoted to such service shall be stated; but nothing in this section shall prevent such board from disallowing any account in whole or in part, when so rendered and certified. County commissioners not to allow accounts unless verified.

Sec. 2. That section twenty-five of said act be amended to read as follows:

Sec. 25. Whenever a claim of any person against a county shall be disallowed in whole or in part, or when any tax-payer of the county shall feel aggrieved by any allowance made by the board as excessive, unjust to the county, or illegal, such person may appeal from the decision of such board to the district court, for the county, by causing a written notice of such appeal to be served on the clerk of such board, within thirty days after the making of such decision or allowance, and executing a bond to such county, with surety to be approved by the Appeal in case of disallowance of account.



## COUNTY COMMISSIONERS.

clerk of such board, conditioned to prosecute such appeal to effect, and to pay all costs that shall be adjudged against the appellant.

Approved February 18th, 1874.

## COUNTY COMMISSIONERS.

AN ACT authorizing the county commissioners of the several counties to dispose of the surplus moneys in the different county funds.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. The county commissioners of the several counties are hereby authorized to transfer all surplus moneys now on hand in any of the several county funds, except the school fund, to such fund or funds as they may deem for the best interest of their respective counties, or to appropriate said surplus moneys to the payment of the outstanding indebtedness of their respective counties. *Provided*, that no moneys belonging to the school fund shall be taken therefrom except for school purposes.

County commissioners may transfer surplus funds, &c.

Exception as to school fund.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after the first day of March, A. D. eighteen hundred and seventy-four.

Approved February 18th, 1874.

## COSTS—FEES.

AN ACT to curtail certain expenses.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the county commissioners of the several counties of this territory, when any bill of costs of any justice of the peace, constable, marshal, sheriff, or other officer of this territory, or of any county, township, or precinct therein is presented to them for fees in any case of misdemeanor not prosecuted by indictment, for allowance, shall not allow the same, unless in their judgment it appeared at the time such course was commenced and prosecuted and said fees incurred to said officers, that the public welfare and the good order and peace of the territory would be promoted by such prosecution ; nor shall they, in any event of conviction, allow any fee or cost of any officer out of the public funds until they are satisfied that every reasonable effort has been exhausted to collect out of the estate of the defendant, or defendants, convicted (of) such fees.

Allowance of fees, in case of misdemeanor, when case prosecuted without indictment.

Defendant if convicted to pay costs.

Sec. 2. The dieting of prisoners per day shall not hereafter exceed two dollars per day, and it shall not be in any sum exceeding what the county commissioners believe to be the actual value thereof, and the minimum price fixed by the act approved April 28, 1873, entitled "An Act to establish and regulate the fees of sheriffs in the Territory of Montana," is amended accordingly.

Allowance for dieting prisoners.

Sec. 3. That hereafter the fees of the probate judge herein specified shall be as follows: Taking proof of a codicil, credit proved substantially, \$1.00; examining and approving each inventory, sale bill, or account current, filed by executor or adminis-

Fees of probate judge.

Act repealed.

trator, \$1.00; entering the settlement of executors and administrators on the order book, \$1.00; allowing or disallowing demand against an estate, \$1.00; issuing subpœna under seal, 50 cents; every original writ, under seal, not otherwise provided for, 50 cents; precept for jury, 50 cents; official certificate and seal, 75 cents. An act entitled "An Act to regulate and establish the fees of probate judge and clerk thereof, approved May 8, 1873," is hereby amended accordingly.

Auditing officer to have no interest in claim audited.

Sec. 4. No county commissioner, or other auditing officer, shall acquire, in any manner, against any corporate municipality, or against the territory, any claim, except for official compensation fixed by law, when such claim is one which is to be audited by the board, or body, or office which he holds, or of which he is a member, but in the hands of such person, or his assignee, or partner therein, the same shall be wholly void.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 13, 1874.

#### COUNTIES AND COUNTY BOUNDARIES.

AN ACT to amend section seven, of chapter twenty, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory."

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That all that part of Montana Territory embraced within the following boundaries be, and the same is hereby, declared to be Meagher county, to-wit: Commencing in the middle of the main channel of the Missouri river, opposite the

Boundaries of Meagher county defined.

mouth of Sixteen Mile creek; thence easterly along the center of the main channel of said Sixteen Mile creek four miles; thence north to the northern boundary of Gallatin county; thence due east along said line to the one hundred and ninth parallel of longitude; thence due north along the one hundred and ninth parallel of longitude to a point due east of the middle of the main channel of the Missouri river, opposite to the mouth of Deep creek or Smith's river; thence west to the middle of the channel of the Missouri river, opposite to the mouth of Deep creek or Smith's river; thence southerly up the middle of the main channel of the Missouri river to the place of beginning.

Sec. 2. That the northern boundary of Gallatin county shall be as follows, to-wit: Commencing at a point in the middle of the Missouri river, opposite the mouth of Sixteen Mile creek, thence easterly up the Main channel of said Sixteen Mile creek four miles; thence north to the south boundary of Meager county; and thence due east along said line to the one hundred and ninth parallel of longitude.

Northern boundary of Gallatin county defined.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 13, 1874.

## COUNTIES—MADISON, BEAVERHEAD.

AN ACT to attach to the counties of Madison and Beaverhead that portion of the public domain described in the act of Congress, approved February 17, 1873, entitled "An Act to readjust the western boundary of Dakota Territory."

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That that portion of the public domain that is described in the act of Congress, approved February 17, 1873, entitled "An Act to readjust the western boundary of Dakota Territory," lying east of an extension due south of the line dividing the counties of Madison and Beaverhead, be, and the same is hereby, attached to and shall hereafter comprise a portion of the county of Madison.

Attaching certain portion of the public domain to the county of Madison.

Sec. 2. That all the remaining portion of said public domain, lying west of said line, be, and the same is hereby, attached to and shall hereafter comprise a portion of the county of Beaverhead.

Attaching certain portion of the public domain to the county of Beaverhead.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 7, 1874.

## COUNTY ORDERS.

AN ACT to amend section 94, of chapter 21, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section amended. Section 1. That section 94, of chapter 21, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Mon-

tana Territory," approved January 12, 1872, be amended so as to read as follows :

(Sec. 94.) County orders, properly attested, shall be entitled to preference, as to payment, according to the order of time in which they may be presented to the county treasurer, but when two or more orders are presented at the same time, preference shall be given to the order of the oldest date.

County orders paid as presented—exception.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 9, 1874.

#### COUNTIES AND COUNTY OFFICERS.

AN ACT amending "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, in relation to county and county officers," approved January, 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That section twenty-eight, of an act revising, re-enacting and codifying the general and permanent laws of Montana territory, in relation to counties and county officers, approved January 12th, 1872, be amended so as to read as follows :

Sections amended.

Sec. 28. The board of county commissioners at their annual March session, or oftener, if they deem it necessary, shall carefully examine the county orders returned by the county treasurer, by comparing each order with the record of orders in the clerk's office. They shall cause to be entered on said record, opposite to the entry of each over issued, the date when the same was cancelled ; they shall also make a list of the orders so cancelled, specifying the number, date, amount, and the per-

Commissioners to examine order returned by treasurer at March term annually.

Date of cancellation, entered, &c.

son to whom the same was payable, and enter the same on the journal of the board. They shall also cause to be cancelled all county orders that have remained one year or more uncalled for in the county clerk's office, the same to be cancelled in the same manner as other county orders. Also at the same time the county treasurer shall deliver over to the board of county commissioners, all warrants or vouchers that he may have in his possession, for moneys disbursed by him as such treasurer, and the county commissioners shall receipt for the same, and make out and sign a list thereof, specifying the number, date, and amount of warrant or voucher, to whom payable, and where paid or cancelled, and the county clerk shall record the same in the journal of the board.

Orders uncalled for after one year cancelled.

Treasurer to deliver to commissioners vouchers.

Commissioners to receipt for vouchers, particularly describing same.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 18th, 1874.

#### COUNTY OFFICERS—REVENUE.

AN ACT to amend "An Act in relation to counties and county officers," approved July 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section one, of an act entitled "An Act relating to counties and county officers," approved January 12th, 1872, be so amended as to read as follows:

The county commissioners of the different counties of this territory may set apart from the county part of the revenue of their respective counties a certain sum, annually, for the payment of the out-

Part of revenue may be set aside to pay bonds, &c.

standing county bonds and the interest thereon; *Provided*, That the sum so set apart shall not exceed five mills of the number of mills levied for county tax. Said fund shall be known as the "Sinking Fund," to pay said bonds and interest, and which bonds shall be paid in the order in which they were issued, and whenever a sufficient sum shall have accumulated in said sinking fund to pay any bond, over and above the sum required to pay the annual interest on the outstanding bonds, it shall be the duty of the treasurer to post upon the door of his office a notice, that there is money in his hands to pay such bond, designating it by the number, date, amount and the name of the payee, and from the date of such notice the interest of such bond or bonds shall cease, and it shall be the duty of the treasurer to fill a true copy of such notice in the office of the clerk of his county, and the clerk shall file and preserve the same in his office, which notice, or a duly authentic copy thereof, shall be *prima facie* evidence of such filing.

County treasurer to post notice of bonds when payable.

Sec. 2. All acts and parts of acts, in conflict with this act, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January, 24th, 1874.

#### COUNTY POOR.

AN ACT entitled An Act to amend chapter 50 of the general and miscellaneous laws of Montana Territory, approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section 7 of chapter 50 of the general and miscellaneous laws, approved January 12, 1872, be amended so as to read as follows:



**Duty of Commissioners when pauper applies for relief.**

**Term residence defined.**

“Sec. 7. When the application is made by any pauper to the board of county commissioners of any county in this territory for relief, it shall be necessary for said commissioners to require of said pauper satisfactory evidence that he (or she) has been a resident of the county for sixty days immediately preceding the day upon which such application is made. The term “residence” as used in this section shall be taken and considered to mean the actual residence of the party, or the place where he (or she) was employed, or in case he (or she) was in no employment, then it shall be considered and held to be the place where he (or she) made it his (or her) home.”

Sec. 2. That section 8 of same chapter as aforesaid be amended so as to read as follows :

**Non-resident pauper becoming chargeable.**

“Sec. 8. If any person shall become chargeable in any county in which he (or she) did not reside at the commencement of the sixty days immediately preceding his (or her) becoming so chargeable, he (or she) shall be duly taken care of by the county commissioners where he (or she) may be found, and it shall be the duty of the county clerk of the county commissioners of such county, to send notice by mail to the clerk of the county commissioners of the county in which such person resided as before stated, that said person has become chargeable as a pauper, and requesting the authorities of said last named county to remove said pauper forthwith, and to pay the expenses incurred in taking care of him (her, or them). If any such pauper, by reason of sickness or disease, or by neglect of the county commissioners to which said county he (or she) belongs, or for any cause, cannot be removed, then the county taking charge of such pauper may sue for, and recover from the county to which he (or she) belongs, in any proper action before any court having competent jurisdiction, the sum expended

**County clerk to notify clerk of pauper's county**

**Pauper removed to his county**

**County incurring expense may sue county liable.**

for and on behalf of such pauper or paupers, and in taking care of the same, and any judgment so recovered by virtue of this act shall be paid out of the poor-fund of the county to which said pauper or paupers are chargeable."

Sec. 3. That section 9 of the same chapter as Sections amended. aforesaid be amended as to read as follows:

"Sec. 9. If any person shall bring and leave, or cause to be brought and left, any pauper or paupers, in any county in this territory, wherein such pauper is not lawfully settled, or shall bring and leave, or cause to be brought and left, in any county in this territory, any person who from any disability will become chargeable upon said county, with the intent to make such pauper or paupers a county charge, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars nor less than twenty-five dollars, and that all fines collected under and by virtue of this act shall be paid into the poor-fund of the county in which such pauper is brought. <sup>Penalty for bringing and leaving pauper</sup>

Sec. 4. That all acts and parts of acts in conflict with this act be and the same are hereby repealed. <sup>Repealing clause.</sup>

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 13, 1874.

#### DEAF, MUTE, AND BLIND CHILDREN.

AN ACT to provide for the education of deaf, mute and blind children.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. The governor and superintendent of public instruction of this territory are hereby au-

Education of deaf, mute and blind children; governor and superintendent of public instruction to contract for.

thorized to contract with any suitable institution in any state or territory of the United States, for the education of any deaf, mute or blind child between the ages of eight and sixteen years, who is actually a resident of this territory, at an expense to the territory of not more than three hundred dollars per annum for each such child, and for a term not exceeding four years for each such child, and upon the certificate of the said governor and superintendent of public instruction that such contract has been made, and that any such child is receiving instruction in such institution, the territorial auditor shall draw his warrant on the territorial treasurer for the payment of the fees of such institution in accordance with the terms of such contract.

Territorial auditor to draw warrant to pay expenses of.

Sec. 2. Whenever the parent or guardian of any deaf, mute or blind child, between the ages of eight and sixteen years, and actually a resident of this territory, shall furnish to the governor and superintendent of public instruction of the territory satisfactory evidence that such child has been placed in a proper institution, either public or private, for the education of such child, it shall be the duty of said governor and superintendent of public instruction to certify such fact to the territorial auditor, who shall thereupon draw his warrant upon the treasurer of the territory for the fee of such institution annually, semi-annually or quarterly as may be required by the rules of such institution, subject to the limitations, as to amount and time for each scholar as prescribed in the preceding section. *Provided, however,* That in no case shall any warrant be drawn for the education of such child for a period longer than such child shall remain a pupil of such institution; and that a child once placed in any such institution shall not be entitled to the aid

When child in proper institution, governor and superintendent of public instruction to certify to auditor.

How warrant shall be drawn.

provided for in this act, if such child be transferred to any such other institution without the consent of the governor or superintendent of public instruction shall have first been obtained to such transfer for good and sufficient cause shown.

Child once placed in institution not to be transferred without consent, etc.

Sec. 8. *Provided*, That the provisions of this act shall not apply to any deaf, mute or blind child whose parents, in the judgment of the governor and superintendent of public instruction, are amply able to so educate such child; nor shall they apply to any child whose estate is amply sufficient to care for and educate such child.

Provisions of this act not to apply to others than indigent children.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 13th, 1874.

#### DEPUTY DISTRICT CLERKS.

AN ACT to authorize the appointment and qualification of deputy clerks of the district court.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the clerks of the district of the several counties within this territory may, with the approval of the judge of the district court, within their several judicial districts, appoint one or more deputies, which shall be evidenced by a certificate thereof, signed by such clerk and approved by said judge, and entered upon the journals of their respective courts, which deputy shall continue during the pleasure of the principal, and every principal may take such bond and security from his deputy as he may deem necessary to secure the discharge of his duties; and the principal shall in all cases be

Appointment of deputy district clerks.

Bond of deputy

Principal liable for acts of deputy.

answerable and liable for the neglect, default, or misconduct in the office of his deputy.

Oath of deputy. Sec. 2. That every such deputy shall, previous to entering upon the duties of his appointment, take an oath faithfully to perform all the duties thereof, which oath shall be entered on the journal of said court, and when so qualified, said deputy may do and perform all the duties appertaining to the office of his principal.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 4th, 1874.

#### ELECTIONS.

AN ACT amending an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section Amended. Section 1. That section one, of chapter twenty-three, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872, be so amended as to read as follows :

Qualification of electors. Sec. 1. That all male citizens of the United States, above the age of twenty-one years, and all male persons of the same age, who shall have declared their intention of becoming citizens, and who, under existing laws of the United States may ultimately become citizens thereof, shall be deemed electors of this territory, and be entitled to vote for delegate to congress, and for territorial, county, and precinct officers : *Provided*, they shall have resided in the territory six months, and in the county where

they may offer to vote thirty days next preceding the day of election.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

#### ELECTIONS.

AN ACT to amend section 32 and section 33, of chapter 23, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That section 32, of chapter 23, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, be so amended as to read as follows :

Sec. 32. Where two or more counties are united in a council or representative district, or for the election of a district attorney, or any other officer, the secretary of the territory, immediately after all the votes shall be certified and transmitted to him, as provided in section twenty-nine of this chapter, shall examine the same, as provided in section twenty-nine for the votes to delegate to congress, and shall transmit by mail to the person found to be elected as such district officer a certificate of election, sealed with the seal of the territory.

Sec. 2. That so much of section 33, of said chapter 23, as provides compensation to county officers for attending to canvass votes for district officers, and all other acts and parts of acts, in con-

Section amended.

Returns of election of district officer of district of two or more counties made to secretary of territory

Secretary to make out and transmit certificate of election.

Section repealed.

flict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 3. This act shall be in force from and after its passage.

Approved February 7, 1874.

# ELECTIONS.

AN ACT to amend section 51, of chapter 23, of "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That section 51, of chapter 23, of "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12, 1872, be amended so that it shall read as follows :

Sec. 51. It is hereby made the duty of the Sheriff to administer oath to judges of election. sheriff, at the time he delivers the poll-books, as provided in section (8) of this act, to administer the oath, as provided in section (9) of this act, to one of the judges of the election, and such judge may administer the oath to the other judges and clerks of such election; in case such judges fail to serve at such election, either of the other judges may administer such oath.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved January 21, 1874.

## FEES.

AN ACT to amend an act entitled "An Act to amend an act to provide for and regulate the rate of charges for the publication of legal documents." Approved December 28th, 1871.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That section one of an act to amend an act entitled "An Act to provide for and regulate a rate of charges for the publication of legal documents, approved December 28th, 1871, be amended so as to read as follows :

Section amended.

Sec. 1. Publishers of newspapers in this territory shall be entitled to the following fees for publication of legal advertisements: For the first insertion of each folio of one hundred words, two and one-half dollars; for each subsequent insertion, one dollar and fifty cents.

Fees for publication of legal documents.

Sec. 2. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

Repealing clause.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 13th, 1874.

## FEES.

AN ACT to establish the fees of Territorial Treasurer and Auditor.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the territorial treasurer shall receive a salary of fifteen hundred dollars a year, which shall be paid quarterly, out of the territorial treasury, by warrant on the general fund.

Salary of territorial treasurer.



Sec. 2. That the territorial auditor shall receive a salary of fifteen hundred dollars a year, to be paid in the same manner as the treasurer is paid.

Salary of territorial auditor.

Sec. 3. That all acts and parts of acts conflicting with this act are repealed.

Acts repealed.

Sec. 4. That this act shall take effect from and after its passage.

Approved February 18th, 1874.

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INSANE.

AN ACT to provide for the custody, maintenance, and treatment of the insane.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the governor be and he is hereby authorized and empowered to contract with the directory of St. Vincent's Hospital, in the town of Helena, or at the directory of any other hospital in this territory, for the custody, maintenance, and treatment of all insane persons in the Territory of Montana, for a length of time not to extend beyond the regular session of the legislative assembly.

Governor authorized to contract for keeping insane.

Sec. 2. The governor shall, upon the application of the said directory, at the end of each quarter, certify to the territorial auditor the amount due for the custody, maintenance, and treatment of such insane persons; and it shall be the duty of the territorial auditor to draw his warrant upon the territorial treasurer for such amount, payable out of the moneys in said treasury, not otherwise appropriated.

Territorial auditor to draw warrant to pay for keeping insane.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 18th, 1874.

## JOINT DEBTORS.

AN ACT in relation to joint debtors.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That whenever any co-partnership firm shall be dissolved by mutual consent or otherwise, it shall be and may be lawful for any one or more of the individuals who was or were embraced in such co-partnership firm, to make a separate composition or compromise with any one or all of the creditors of such co-partnership firm; and such composition or compromise shall be a full and effectual discharge to the debtor or debtors making the same, and to them only, of and from all and every liability to the creditor or creditors with whom the same is made or incurred, by reason of his or their connection with such co-partnership firm, according to the terms of such compromise.

Individual member of firm may compromise and release himself as to liabilities of co-partnership.

Sec. 2. Every such debtor or debtors making such composition or compromise, may take from the creditor or creditors with whom he may make the same, a note or memorandum in writing exonerating him or them from all and every individual liability incurred by reason of such connection with such co-partnership firm; which note or memorandum may be given in evidence by such debtor or debtors in bar of such creditor's right of recovery against him or them; and if such liability shall be by judgment in any court of record in this territory, then on a production to and filing with the clerk of such court the said note or memorandum in writing, such clerk shall discharge such judgment of record as far as the said compromising debtor or debtors shall be concerned.

Member of co-partnership so compromising may take memorandum or other evidence of release.

Sec. 3. Such compromise or composition with an individual member of a firm shall not be so con-

Such compromise by one member of firm not to operate as release of others.

Member proceeded against may plead set-off same as if co-partner had not settled by compromise.

Act in no way to deny or effect right of defense by member not compromising.

How far discharge of one member deemed payment.

Member compromising to contribute his share of firm debt.

Act to extend to all joint debtors, except as provided in section six.

Act not to extend to principal debtor when his co-debtor is surety

strued as to discharge the other co-partners, nor shall it impair the right of the creditor to proceed against the members of such co-partnership firm as have not been discharged. And the member or members of such co-partnership firm so proceeded against shall be permitted to set off any demand against said creditor or creditors which could have been set off had such suit been brought against all of the individuals composing such firm; nor shall such compromise or discharge of an individual of a firm prevent the other members of such firm from availing themselves of any defence that would have been available had this act not been passed, except that they shall not set up the discharge of the other co-partners unless it shall appear that all were intended to be discharged: *Provided*, that the discharge of any such co-partner shall be deemed a payment to the creditor equal to the proportionate interest of the partner discharged in the partnership concern.

Sec. 4. That such compromise or composition of an individual of a firm with a creditor of such firm, shall in no wise affect the right of the co-partners to call on the individual making such compromise for his ratable portion of such co-partnership debt, the same as if this law had not been passed.

Sec. 5. The above provisions, in reference to co-partners of a firm, shall extend to all joint debtors, except as provided in section six of this act, who are hereby authorized, individually, to compound or compromise, for their joint indebtedness, with the like effect in reference to creditors and to joint debtors of the individual so compromising, as above provided in reference to co-partners.

Sec. 6. The foregoing provisions shall not be construed to apply to any debtor or debtors who, by the express terms of the contract upon which the indebtedness exist or arose, was the principal debtor while the other joint debtor or debtors were sureties.

Sec. 7. That upon the rendition of any judgment in any court in this territory, if it shall be shown that one or more of the defendants against whom the judgment is to be rendered are principal debtors, and others of the said defendants are sureties of such principal debtor or debtors, the court may order the judgment, so to state, and upon the issuance of an execution upon such judgment, it shall direct the sheriff to make the amount due thereon out of the goods and chattels, lands and tenements of the principal debtor or debtors, or if sufficient thereof cannot be found within his county to satisfy the same, then that he levy and make the same out of the property, personal or real, of the judgment debtor who was surety.

Judgment may state when debtor's principal and surety.

Goods, &c., of principal debtor to be first taken in such case.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved February 12th, 1874.

#### LICENSES.

AN ACT to repeal section 25, of "An Act concerning license," approved May 8th, 1873, in relation to telegraph lines.

*Be it enacted by the Legislative Assembly of the Territory of Montana.*

Sec. 1. That section 25 of An Act concerning licenses, approved May 8th, A. D. 1873, be and the same is hereby repealed.

Section of license law repealed by telegraph lines re-  
pealed

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11th, 1874.

## LIENS.

## AN ACT in relation to mechanics' liens.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section amend-  
ed.

Sec. 1. That section six of chapter twenty of an act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872, having reference to mechanics' liens, be amended so as to read as follows :

Party intend-  
ing to enforce  
lien to file ac-  
count of claim,  
properly veri-  
fied, with coun-  
ty recorder.

Sec. 6. It shall be the duty of every (person and all persons except as has been provided for sub-contractors, who wish to avail himself or themselves of the benefits of this act, to file with the recorder of the county in which the building, erection, bridge, flume, canal, ditch, mining claim, quartz lode, ranch, city or town lots, or other improvements upon lands to be charged with lien, is situated, and within ninety days after the things aforesaid have been furnished, or the work or labor done, or performed, a just and true account of the amount due or owing to him after allowing all credits, and containing a correct description of the property to be charged with said lien and verified by affidavit.

Sec. 2. That section seven of said act be amended so as to read as follows :

Duty of record-  
er when ac-  
count is filed.

Sec. 7. It shall be the duty of the recorder of the county to endorse upon every account the day of its filing, and make an abstract thereof in a book by him to be kept for that purpose, and properly indexed, containing the date of its filing, the name of the person laying or imposing the lien, the amount of such lien, the name of the person against whose property the lien is filed, and the description of the property to be charged with the same; for all of which he shall receive the sum of one dollar from the person laying or imposing the lien, which

Fee of recorder

shall be taxed and collected as other costs in case there be suit thereon. That section twenty of said chapter be amended so as to read as follows :

Sec. 20. All suits under this act shall be commenced within ninety days in case of sub-contractors, and twelve months in all other cases from time of filing the account or statement as aforesaid, and not after, and be prosecuted without unnecessary delay to final judgment.

When suit to be commenced

Approved February 18th, 1874.

#### LIVE STOCK.

A BILL for An Act concerning the management of live stock and the better to protect the interests of stock-growers in the Territory of Montana.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the county commissioners of the several counties of this territory shall, at their first regular meeting, after the passage of this act, divide their respective counties into stock districts, of not less than three (districts) and not more than ten districts. They shall have due regard to the natural boundaries and take into consideration the convenience of the resident stock-owners thereof.

Division of counties into Stock districts.

Sec. 2. The said county commissioners shall, also, at their first regular meeting, after the passage of this act, order that the cattle within each district, as the same may be laid off, be gathered together or rounded up, in the most suitable and convenient place in each district, to the stock owners of such district, at such time or times as the said commissioners may designate, under the care and management of the stock owners of such district,

Cattle in each districts to be rounded up.

subject to such rules and regulations as the county commissioners shall at said meeting prescribe. *Provided*, That round-ups shall not be had oftener than twice in each year. *Provided always*, That the word "cattle" shall not apply to work cattle, dairy or milch cows, or stock of any kind under the supervision of a herder.

Commissioners  
to appoint  
persons to take  
charge of un-  
claimed stock.

Compensation  
of persons hav-  
ing care of  
such.

Notice to be  
given of round-  
up.

Sec. 3. The said commissioners shall have authority, and it shall be their duty, at their said first meeting and annually thereafter, to appoint a suitable person or persons in each stock district to take charge of all unclaimed stock that may be found in such district round-up; and said person or persons so appointed shall be allowed a reasonable compensation for the care and custody of such unclaimed stock. Such compensation shall be paid by the owner or owners of such stock, and such reasonable charge or compensation due such person or persons shall be a lien on such unclaimed stock. It shall also be the duty of said commissioners of each county to give a sufficient public notice, for at least thirty days, before the time set for the round-up in each district of their respective counties. *Provided*, That the first round-up in each district herein provided for shall be designated and had on different days, so that the round-up shall not occur on the same day in any two districts of the same county.

District meet-  
ing to elect  
stock board.

Organization of  
meeting.

Sec. 4. The said county commissioners shall, at their first meeting, after the passage of this act, order and direct, that on the first Monday in June (1874) a public district meeting shall be held by the *bona fide* residents of each stock district, within their respective counties, for the purpose of organizing a "stock board" in each of such stock districts in each county. At said first meeting the *bona fide* residents then present shall proceed to organize by the selection of one of their number then

present as chairman, and one of their number as clerk of such meeting. Such meeting, when thus organized, shall at once proceed to elect by ballot three *bona fide* resident stock owners of such stock district, who shall be denominated "stock inspectors" for such stock district, and shall constitute the stock board of such stock district. The said stock inspectors that may be elected at said first meeting shall hold their office for the period of one year, and until their successors are duly elected. The election in all of the districts of the several counties of this territory, for the stock board of the several districts in each county, shall be held on the first Monday of June, annually, after said first election, at such place as may be selected in each district, by the stock board of such district.

Election of  
stock inspectors

Sec. 5. The stock board that may be elected in pursuance of section four of this act, shall, as soon as practicable after the adjournment of the meeting by which such board shall be elected, proceed to organize by electing one of their number superintendent and another clerk of said stock board. The superintendent shall preside at all meetings of the board, and the board shall preside at all public meetings of the district. The superintendent shall, with the aid of the other inspectors, superintend all round-ups, and shall have the care and custody of all unclaimed and estray stock.

Organization of  
board.

Superintendent,  
his duties,  
etc.

The clerk of said board shall keep a correct description of all unclaimed and estray stock in a record book kept for such purpose. It shall be the duty of each clerk of his district, within six days after such round-up, to send to the several clerks of the stock districts within his county a brief but correct description of all estray stock of his district.

Clerk of board,  
his duties, etc.

Sec. 6. Within six days after the organization of each stock board, the clerk of such board shall file in the office of the county clerk of his county a certificate of organization filed with county clerk.

Certificate of  
organization  
filed with coun-  
ty clerk.



tificate of the election and organization of such board, which certificate shall be *prima facie* evidence of the due election and organization of such board; but the absence of such certificate shall be conclusive evidence of the district to elect or organize such a stock board. The county clerk shall file and preserve such certificate without fee or compensation.

Sec. 7. The stock board of the several districts of each county shall adopt and procure a district stock brand and vent, for the district in which said board shall be elected. The brand and vent shall be recorded in the proper office for recording brands, with cost to the district. The district brand and vent shall remain in the charge and custody of the superintendent of the district, and shall not be used except by the order and direction of a majority of said stock board. All stock found in the district that may be declared estrays, under the laws of the territory shall be branded with the brand of the district, and when such stray stock shall be claimed and lawfully proven by the owner or owners, or when such stray stock shall be sold under the stray law, the district brand on such stock shall in all cases be vented. Any one who may be convicted, by a court of competent jurisdiction, of having used such district brand or vent, without authority of the stock board, or having used a counterfeit brand or vent of the same, shall be fined in a sum of not less than ten dollars, and not more than one hundred dollars, and shall be imprisoned in the county jail of the county in which the offence was committed for a term not exceeding twenty days.

Sec. 8. All stock that shall be unclaimed at any round-up and shall remain unclaimed for the period of ninety days thereafter, shall be branded with the brand of the district, and shall remain in the custody of the superintendent of the stock board. If such stock shall remain unclaimed, and

District brand  
and vent.

Estrays branded  
with district  
brand.

When vent to  
be used.

Penalty for ille-  
gally using  
brand or vent.

When unclaim-  
ed stock brand-  
ed and declar-  
ed estrays.

the owner does not appear and claim his property, and prove the same, and pay all reasonable charges for the care and custody of the same, before the next round-up after such stock was recorded as unclaimed, the same shall be declared estray, and shall be advertised by posting written or printed notices in three of the most public places in such district, and shall be sold to the highest bidder, for cash, by the superintendent, at public sale. The proceeds of such sale shall, first, be applied to the payment of the proper and necessary costs for the care, custody, and sale of such estray, and the residue shall be placed in the district fund, subject to the order and direction of the stock board of such district.

Estrays sold by superintendent

Sec. 9. If any person shall brand or mark, with his own brand, any animal being the property of another, or shall efface, deface, or obliterate any brand upon any animal, with intent to convert such animal to his own use, or to prevent the owner thereof from recovering the same, every such person so offending shall be deemed guilty of larceny.

Penalty for illegally branding or effacing brand.

Sec. 10. Any person who shall sell or dispose of any animal branded with his brand shall be required to vent the said brand, and a failure to do so shall lay the vendor liable to a fine equal to the worth of the animal sold or disposed of, the same to be collected as other fines in this act provided, and to be paid into the treasury for the benefit of the school fund.

Person selling stock branded to vent brand.

Sec. 11. All animals affected with any contagious disease shall be at once removed by the owner thereof, or the person in charge of the same, to some secure inclosure, or shall be strictly herded six miles away from any farm, or from any stock running at large, or being herded. Every person who shall neglect or refuse to remove diseased stock affected with any contagious disease, or refuse

Animals with contagious disease to be removed.

or neglect to place such stock in a secure enclosure, or herd them away from any farm or other stock as above provided, shall be liable to be arrested, and on conviction before a court of competent jurisdiction, shall be fined in any sum not less than fifty dollars and not more than five hundred dollars, and shall also be liable to the party injured by such diseased animals running at large after due notice of their diseased condition. It shall be the duty of some one or more of the stock inspectors of the district upon application of any resident of the district, to at once inspect and examine into the condition of any stock alleged to be affected with any contagious disease, and if such stock shall be found so diseased, such inspector shall order such diseased stock to be at once secured or herded in accordance with this section, or if necessary have the same killed by unanimous consent of the board.

Penalty for not removing.

Stock inspector to examine diseased stock, his duty, etc.

Sec. 12. This act shall take effect and be in force from and after its passage.

Approved February 13th, 1874.

## MARKS AND BRANDS.

### AN ACT in relation to Trade Marks and Brands.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That any person, partnership, firm, or private corporation, desiring to secure within this territory the exclusive use of any name, mark, brand, print, designation, or description, for any article of manufacture or trade, or for any mill, hotel, factory, machine shop, or other business, shall deliver to the Recorder of Brands for the Territory of Montana, or

Manner in which exclusive right to use mark or brand can be secured.

cause to be delivered to him, a particular description or *fac-simile* of such brand, mark, name, print, designation, or description as he may desire to use.

Sec. 2. If there be not already a claim filed with the recorder of brands for the same or a similar name, mark, brand, print, designation, or description, he shall immediately record the one furnished, in a book, to be specially provided and kept by him for that purpose, which book shall be at all times subject to public inspection and examination. And after the said record, the person or persons causing the same to have been recorded shall have the exclusive right to use the said name, mark, print, brand, designation, or description. That the exclusive right herein granted shall only authorize the record of a mark, brand, or particular device, and shall not authorize the exclusive use of figures, letters, or roman numerals. If there be already filed the same or a similar brand, mark, name, print, designation, or description, the recorder of brands shall so inform the applicant without delay, and shall not record the same.

Recorder of brands to record.

After recorded person having same recorded to have exclusive right to use.

Extent of right.

Recorder to inform applicant when brand already recorded.

Sec. 3. Any person, partnership, firm, or corporation that shall use or cause to be used any brand, mark, name, print, designation, or description, the same as, or similar to, the one so secured or recorded, for the purpose of deception or profit, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars, and not more than one thousand dollars.

Penalty for using brand, mark, &c., by other party after recorded.

Sec. 4. Any person, partnership, firm, or private corporation that shall use, or cause to be used, any second-hand sack, box, barrel, can, package, or other article on which has been placed any name, brand, mark, print, designation, or description, the property of another, for the purpose of deception, shall be deemed guilty of a misdemeanor, and upon

Penalty for using article already marked for purpose of deception.

conviction thereof shall be fined in any sum not less than one hundred dollars, nor more than one thousand dollars.

Fee of recorder  
for recording.

Sec. 5. The fee of the recorder of brands shall be one dollar for recording each brand, mark, name, print, designation, or description.

Act not to affect  
power of courts  
of equity.

Sec. 6. Nothing in this act shall be construed as to affect the power of courts of equity to perpetually restrain, by injunction or otherwise, the improper use of any mark, brand, name, print, designation, or description, nor to prevent the sale or transfer of such mark, brand, name, print, designation, or description, with the right to use the same.

Persons now  
using brand or  
mark to have  
until July 1st  
to file.

Sec. 7. Persons now using brands or marks for any of the purposes aforesaid shall have until July 1st, 1874, in which to file their claim thereto, before which date no claim to a new brand or mark shall be filed.

Fines under  
act how appro-  
priated.

Sec. 8. That all fines arising under the provisions of this act shall be paid into the county treasury of the county where the offence was committed, for the benefit of the school fund.

Repealing  
clause.

Sec. 9. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after July 1st, 1874.

Approved February 2, 1874.

MARRIED WOMEN—SOLE TRADERS.

AN ACT to authorize married women to transact business in their own name, as sole traders.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. Married women shall have the right to carry on and transact business under their own name, and on their own account, by complying with the regulations prescribed in this act. Married women as sole traders.

Sec. 2. Any married woman residing within this territory, desirous to avail herself of the benefit of this act, shall make her declaration before any person authorized to take acknowledgment of conveyances that she intends to carry on business in her own name and on her own account, specifically setting forth the nature of the business she intends to carry on and transact, and from that date shall be individually responsible in her own name for all the debts contracted by her by virtue of said business, the declaration to be recorded in the office of the county recorder of the county in which said business is to be transacted and carried on. Notice by married woman of intention as sole trader.

Sec. 3. After such declaration has been duly recorded as heretofore provided, the person so making her declaration as aforesaid shall be entitled to carry on her business in her own name, and the property, revenue, money, and debts and credits shall belong exclusively to said married woman, and shall not be liable for any of the debts of her husband, and she shall be allowed all the privileges and be liable for all the legal processes now or hereafter provided by law against debtors and creditors. Rights and liabilities of as sole trader.

Sec. 4. Any married woman availing herself of the benefit of this act shall be responsible for the maintenance of her children. Children of maintained by.

Sec. 5. No married woman shall commence or carry on business on her own account under the provisions of this act, when the amount originally invested in said business exceeds the sum of ten thousand dollars, unless the declaration provided for in section 2 contain a statement, under oath, that the surplus of money above ten thousand dollars invested in said business did not come from any funds belonging to her husband.

Limitation as to.

Sec. 6. The husband of the wife availing herself of the benefit of this act shall not be responsible for any debts contracted by her in the course of said business, without the special consent of said husband, given in writing, nor shall the separate property of said husband be taken on execution for any debts contracted by her.

Husband not liable for debts of.

Sec. 7. All acts and parts of acts in conflict with this are hereby repealed.

Sec. 8. This act to take effect and be in force from and after its passage.

Approved February 4, 1874.

#### MINES—RIGHT OF WAY.

AN ACT to amend section 18, of chapter 83, of an act entitled "An Act concerning the rights of way and easements, and other necessary means for the development of mines," approved January 4, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That section 18, of chapter 83, of an act entitled "An Act concerning the rights of way and easements, and other necessary means for the development of mines," approved January 4, 1872, be amended so as to read as follows :

Sec. 13. The costs and expenses of proceedings under the provisions of this act, except as herein otherwise provided, shall be paid by the party making the application: *Provided*, however, that if the applicant shall, before the commencement of such proceedings, have tendered to the parties owning or occupying the lands or mining claims a sum equal to or more than the amount of damages recovered by the defendant or defendants, then all of the costs and expenses shall be paid by the party or parties owning the lands or mining claims affected by such right of way, and who appealed and resisted the claim of the applicants thereto.

Costs paid by applicant.

Provided applicant shall tender amount of damages.

Sec. 2. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Repealing clause

Approved February 13, 1874.

#### PENITENTIARY.

AN ACT to amend an act entitled "An Act to regulate and govern the Montana Penitentiary," approved May 8, 1878.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section 14, of an act entitled "An Act to regulate and govern the Montana Penitentiary," approved May 8, 1878, be amended so that the same shall read as follows:

Sec. 14. It shall be the duty of the board of directors to keep all the convicts, able to perform manual labor, constantly employed on continuous contracts for their labor, if such contracts can be made, and if not, then on such labor as can be procured for them at some reasonable rate, as the best

Section amended.

Directors to keep convicts employed.



Products of labor applied to pay current expenses.

Directors to let out labor of convicts.

Party contracting for labor to give bond.

Payment made to warden.

The warden to report and pay over same, &c.

Section repealed.

interests of the territory shall require, at the highest price in either event that can be obtained, with due regard to their security; and the proceeds of their said labor shall be applied to the payment of the current expenses of the prison. And the said board is hereby authorized, and (it) is made their duty, to let the labor of the prisoner, if the same can be by them done, at any reasonable rate, for a period not exceeding four years, and they shall obtain the best terms and highest rate possible; and the person or persons, company or association, so contracting for said labor are hereby authorized, under the direction and authority of said board, to construct shops and machinery within or near the enclosure, in which to employ said labor, and if said labor is so contracted, the contractor shall give bonds in the sum of ten thousand dollars, with two sufficient freeholders as sureties, conditioned for the payment of such labor, and strict diligence in the keeping and care of the prisoners while employed, which said bond shall be approved in the first instance by the directors, and by the governor, who shall deposit the same with the territorial auditor.

Sec. 2. The payment shall be paid quarterly to the warden, who shall report the same forthwith to the board of directors, and to the auditor of the territory, and he shall pay the same without delay to the territorial treasurer.

Sec. 3. The original section, 14, of the act aforesaid, is hereby repealed.

(Sec. 4.) This act shall take effect and be in force from and after its passage.

Approved February 13, 1874.

## PLACER MINES.

AN ACT to repeal an act entitled "An Act to provide for the forfeiture to the territory of placer mines held by aliens," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That an act entitled "An Act to provide for the forfeiture to the territory of placer mines held by aliens," approved January 12, A. D. 1872, be and the same is hereby repealed. Act of January 12th, 1872, repealed.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved January 15, 1874.

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PROBATE COURTS.

AN ACT to provide for the holding of terms of the Probate Court.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That there shall be regular terms of the probate court held in the several counties of the territory, on the first Mondays of January, March, July, September, and November of each year, for the transaction of probate business. Regular terms of probate court in the several counties.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

## PROBATE CLERK.

AN ACT to amend an act entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section.  
amended.

Section 1. That section 2, of chapter 11, of an act entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12, 1872, be amended so as to read as follows :

Clerk of probate court appointed by probate judge.

Sec. 2. The said probate clerks shall be appointed by their respective judges, to hold their office at the will and pleasure of the probate judge so appointing him : *Provided*, however, that the appointment of a clerk shall be optional with the judge in such counties; when the judge does not deem it necessary, he may and is hereby authorized to act as *ex-officio* clerk, subject to give such additional bond as is required by law.

Repealing  
clause.

Sec. 2. That section 3 of said act, and all acts and parts of acts in conflict with this act, are hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 13, 1874.

## PUBLICATION—LEGAL NOTICES.

An ACT to regulate the rights of parties in the publication of legal notices.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That in all cases wherein the publication of legal notices can be made in one of two or more newspapers, in accordance with the laws now in force in reference thereto, the party, his agent, or attorney procuring such notice, may direct and designate the newspaper in which the same may be made: *Provided*, the same be made in some paper published in the county where suit is commenced, and if no paper be published in the county, then in the nearest paper published in the judicial district, unless the judge of the court in which such action is pending shall determine that such papers are not the papers most likely to give notice to the person to be sued. And it shall be the duty of the officer charged with the publication thereof to so publish the same in accordance with such direction.

Party or attorney may select newspaper to publish legal notice.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 17, 1874.

## REVENUE.

AN ACT to amend section forty-four of chapter eighty-five of an act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," providing for the collection of the revenue, approved January 12th, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section forty-four of chapter eighty-five, of an act entitled "An Act revising, re-enacting [and] codifying the general and permanent laws of Montana territory, providing for the collection of revenue," approved January 12th, 1872, be amended so as to read as follows:

Sec. 44. Each county treasurer shall, at the expiration of every three months, render an account of and cause to be paid over to the territorial treasurer, the amount of all moneys collected for territorial purposes, and shall complete the collection of all lists delivered to him, and at the expiration of each fiscal year, and at the expiration of his term of office shall make final settlement with the county commissioners of his county, who shall report to the territorial treasurer immediately thereafter a correct statement of the amount found due the territory, and the county treasurer shall remit to him such amount. No mileage shall in any case be hereafter allowed to county treasurers.

County treasurer to render an account and pay moneys to territorial treasurer every three months.

To make final settlements end of every fiscal year and expiration of office.

No mileage allowed county treasurers.

Acts repealed.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 9, 1873.

## REVENUE.

AN ACT to amend an act entitled "An act providing for the collection of revenue," approved January 12, 1872.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section twenty-eight of an act entitled "An Act providing for the collection of revenue," be amended so as to read as follows: Section amended.

Sec. 28. The treasurer shall, within twenty days from the time he shall receive the assessment roll from the clerk, direct to each tax payer of his county a written or printed notice of the amount of tax due from such tax payer, and the time the same becomes due. Such notice shall be directed to the nearest post office to which said tax payer resides. Printed blanks for said notices and postage stamps for the same, shall be furnished said treasurer by the board of county commissioners. No other demand for taxes shall be necessary, but it shall be the duty of every person owing taxes to pay the same to the treasurer of the county, at his office, and if any such tax payer shall fail or refuse to pay the taxes assessed against him, on or before the first day of December following, the levy there- Treasurer to notify tax payer of taxes due.

of of ten (10) per cent. of such taxes shall be added thereto, and collected as a portion of said taxes, and it shall be the duty of the tax collector immediately after the said first day of De- Blanks and postage furnished by county commissioners.

cember, to seize any personal property belonging to or which may have been assessed to any tax payer who shall then be delinquent, and sell the same as provided in section forty-seven; *Provided*, That nothing herein shall be so construed as to prohibit the collector from seizing and selling personal property at any time before the first day of December. Taxes to be paid at office of treasurer.

But it shall be his duty at any time when there Penalty for not paying on or before December first of each year.

Proceeding against delinquent.

shall appear to be danger of the removal of property on which taxes are unpaid, from the county, to seize and sell a sufficient amount of the same to satisfy the taxes thereon, together with the costs of seizure and sale.

Duty of treasurer if danger of property being removed.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 10th, 1874.

# REVENUE.

AN ACT to amend an act entitled "An Act providing for the collection of revenue," and to repeal section one, of said act.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

That section one, of an act entitled "An Act providing for the collection of revenue," passed January 12th, 1872, be so amended as to read as follows:

Amount of taxes to be levied and collected annually.

Section 1. There shall be levied annually by the board of county commissioners of each county in this territory, and collected by the county treasurer of such counties, an *ad valorem* tax, on each dollar of assessed valuation on all property in this territory, subject to taxation, for territorial purposes, on each dollar, three mills; for county purposes on each dollar, any sum not exceeding sixteen mills; and for school purposes, not less than three, nor more than five mills; and for the benefit of the poor, not less than one, nor more than five mills; and such levy, when made, shall be entered on the books of said commissioners, and in any county where the levy for the current year has been made, the county commissioners of each county shall, at their meeting, proceed to levy such taxes as they are herein

Amount levied to be entered on books of county commissioners.

When levy to be made.

authorized to levy, unless they at their Janury meeting have levied the same.

Sec. 2. That section one of said act be and the same is hereby repealed. Repealing clause.

Sec. 3. This act to take effect on and after its passage.

Approved February 9th, 1874.

#### ROADS AND HIGHWAYS.

AN ACT in relation to roads and highways.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That all county roads shall be under the supervision of the board of county commissioners of the county wherein the said road is located, and no county road shall be hereafter established, nor shall any such road be altered or vacated in any county in this territory, except by authority of the county commissioners of the proper county. County roads under supervision of county commissioners.

Sec. 2. All applications for laying out, altering, or locating county roads, shall be by petition to the county commissioners of the proper county, signed by at least twelve householders of the county, residing in the vicinity where said road is to be laid out, altered, or located, which petition shall specify the place of beginning, the intermediate points, if any, and the place of the limitation of said road. Applications for county roads.

Sec. 3. When any petition shall be presented for the action of the county commissioners for the laying out, alteration, or vacating of any county road, it shall be accompanied by satisfactory proof that notice has been given by advertisement, posted on the front door of the county clerk's office, and also in three public places in the vicinity of said Notice for application.



road or proposed road, thirty days previous to the presentation of said petition to the county commissioners, notifying all persons concerned that application will be made to the said county commissioners, at their regular session, for laying out, altering, or vacating such road, as the case may be.

Appoint-  
ment  
of viewers  
and  
surveyors.

Sec. 4. Upon the presentation of such petition, and proof that notice has been given, as provided in the last section, the county commissioners shall, if they deem the proposed road or alteration of public utility, appoint three disinterested householders of the county as viewers of said road, and a skillful surveyor to survey the same, if deemed necessary by the county commissioners, and shall issue an order directing said viewers and surveyor, if appointed, on a day to be named in said order, or on their failing to meet on said day, within five days thereafter, to view, survey, if so ordered, and lay out or alter said road.

Duties of view-  
ers and survey-  
ors.

Sec. 5. That it shall be the duty of the viewers and surveyors, appointed as aforesaid, after receiving at least five days previous notice by one of the petitioners, to meet at the time and place specified in the order of the county commissioners aforesaid, or within five days thereafter, and after taking an oath or affirmation, faithfully and impartially to discharge the duties of their appointments, shall proceed to view, survey if necessary, and lay out or alter said road, as prayed for in the petition, as near as in their opinion a good road can be made at a reasonable expense, taking into consideration the utility, convenience, inconvenience, and expense which will result to individuals as well as to the public, if such road shall be established and opened or altered. The surveyor, if appointed, shall survey, under the direction of the viewers, and shall make out and deliver to one of the viewers a certified return of the survey of said road, and a plat of

the same; and the viewers, or a majority of them, shall make and sign a report in writing, stating their opinion in favor of or against the establishment or alteration of such road, and set forth the reasons of the same, which report, together with the plat and survey of said road or alteration, if made, shall be delivered to the county clerk by one of the viewers, on or before the first day of the session of the board of county commissioners next ensuing; and it shall be the duty of the county commissioners, on receiving the report of the viewers aforesaid, to cause the same to be publicly read on two different days of the same meeting, and if no remonstrance or petition for damages be filed, and the county commissioners being satisfied that such road will be of public utility, will order the report of the viewers, survey, and plat to be recorded, and from thenceforth said road shall be considered a public highway, and the commissioners shall issue an order directing said road to be opened.

Report of viewers.

Opening of road.

Sec. 6. That in all cases where any oath or affirmation is required to be taken by any person under the provisions of this act, the same may be administered by one of the viewers, who has been previously sworn: *Provided*, that it shall not be necessary to survey any county road, new road, or alteration in roads, if the county commissioners so direct.

Oath of viewers when road not surveyed.

Sec. 7. If any person through whose lands any county road may be viewed or marked out, shall feel that he or she would be injured by the opening of the same, such person may make complaint thereof in writing to the county commissioners at the time the report of the viewers appointed to view said road is received; and if such complaint be made, the county commissioners shall appoint three disinterested householders of the county, who shall meet at such time as may be designated by the commis-

When damages claimed.

Commissioners appointed to assess and report. sioners, or at such time as may be agreed upon by such householders, and after having been duly sworn or affirmed to discharge their duty faithfully and impartially, shall proceed and view said proposed road the whole distance through the premises of the complainant, and assess and determine how much less valuable such premises of the complainant would be rendered by the opening of said road, and they shall report the same in writing to the county commissioners at the next regular session.

Damages, how paid. Sec. 8. If the county commissioners are satisfied that the amount of damages so assessed is just and equitable, and that the proposed road will be of sufficient importance to the public to cause the damages so assessed and determined to be paid by the county, the commissioners shall order the same to be paid to the complainant out of the county road fund; but if in the opinion of the county commissioners such proposed road is not of sufficient importance to the public to cause damages to be paid by the county, they shall refuse to establish the same as a public highway, unless the expense or damages, or such part thereof as they may think proper, shall be paid by the petitioners.

Appeal from assessment of damages. Sec. 9. Any complainant who may conceive himself aggrieved by the assessment of damages as prescribed in the last two sections, may, within thirty days after such report is adopted by the county commissioners, appeal therefrom to the district court of the proper county; such appeal shall be taken to the district court in the same manner as appeals from justices of the peace, and if the appellant shall fail to recover a judgment for fifty dollars more than the amount appealed from, he shall pay all costs of appeal.

Width of roads. Sec. 10. All county roads shall be sixty feet in width, unless the commissioners shall, upon the

prayer of the petitioners for the same, determine on a less number of feet in point of width.

Sec. 11. If any person or persons, through whose lands any public highway is or may be established, shall be desirous of changing such road Changing location of roads. through any other part of his or their lands, such person or persons may, by petition, apply to the county commissioners of the proper county to permit him or them to turn such road through any other part of his or their lands on as good ground, and without material'y increasing the distance, without injury to the public; and on receipt of such petition, accompanied by a sufficient bond to pay the costs and expenses to be incurred thereby, the commissioners may appoint three disinterested householders as viewers, and a surveyor if necessary, who, or a majority of such reviewers, shall proceed to review the ground over which the road is proposed to be changed, and ascertain the distance such road will be increased by the proposed alteration, and make out a report in writing, stating their opinions as to the utility of making such alterations, and if the viewers, or a majority of them, shall report to the county commissioners that the prayer of the petitioner or petitioners is reasonable, and, upon receiving satisfactory evidence that the proposed new road has been opened a legal width, and in all respects made equal to the old road, for the convenience of travelers, the commissioners shall declare such new road a public highway, and make record thereof, and at the same time vacate so much of the old road as is not embraced in the new, and the person or persons petitioning for the alteration shall pay all costs and expense of view, survey if ordered, and return of such alteration.

Sec. 12. If any viewer or viewers shall refuse or neglect to perform the duties required by this act, Viewers fined for neglect of duty. without making satisfactory excuse for such refusal

or neglect, he shall be fined in any sum not exceeding ten dollars, to be recovered by an action before a justice of the peace of the proper county, which fine when collected shall be paid over without delay into the county treasury for the benefit of the road fund.

Private ways or  
roads.

Sec. 13. Any person whose land shall be so situated that it has no connection with any public road, may make application in writing to the county commissioners of his county at a regular session, for a private road leading from his premises to some convenient public road, and thereupon the said commissioner shall appoint three disinterested householders of the county as viewers, and cause an order to be issued directing them to meet on a day named in such order, to view and locate a private road according to the application, and to assess the damages to be sustained thereby, and after being duly sworn or affirmed, faithfully and impartially to discharge the duties of their appointment, and after at least three days notice given to all persons through whose lands such private road is to be located, such viewers shall proceed to locate and mark out a private road twenty feet in width, from some certain point on the premises of the applicant, to some certain point on the public road, so as to do the least possible damage to the lands through which such private road is located, and they shall also, at the same time, assess the damages sustained by the person or persons owning such lands.

Gates on pri-  
vate roads.

Sec. 14. The viewers appointed in accordance with the provisions of the preceding sections of this act shall have power to determine in all cases whether or no gates shall be placed at proper points on said road, and assess damages in accordance with such determination.

Sec. 15. The viewers so appointed, or a majority of them, shall make a report to the county com-

missioners, at the next regular session, of the private road so located by them, and also the amount of damages, if any, assessed by them, and the person or persons entitled to such damages; and if the commissioners are satisfied that such report is just, and after payment by the applicant of all costs of locating such road and the damages assessed by the viewers, the commissioners shall order such report to be confirmed, and declare such road to be a private road, and the same shall be recorded as such; and any person aggrieved by the assessment of damages may appeal within thirty days after such confirmation of the report, to the district court.

Viewers to report on private roads.

Establishment of private roads.

Sec. 16. The several county commissioners shall, as often as they deem necessary, but not oftener than once a year, divide their respective counties, or any part thereof, into suitable and convenient road districts, and cause a brief description of the same to be entered on the county records.

County divided into road districts.

Sec. 17. The several boards of county commissioners shall at their next regular meeting in March appoint a supervisor for each road district in the county, and thereafter at every general election there shall be elected by the qualified voters of each district a supervisor thereof, who shall hold his office for the term of one year, beginning March first next ensuing after his election. The county clerk is hereby required to immediately notify each supervisor of his appointment or election, as the case may be, and the said supervisor shall qualify within twenty days after his appointment or election. The county commissioners are hereby authorized to fill all vacancies that may occur in said office.

Supervisor for each road district.

County clerk to notify supervisor, and he to qualify.

Vacancies.

Sec. 18. Each supervisor shall hold his office for one year unless sooner removed, and shall take an oath to faithfully discharge the duties of his office,

Term of office, oath and bond of supervisor.

and shall enter into an undertaking to the county with one or more sureties, to be approved by the county commissioners, in any sum specified by them, not to exceed one thousand dollars, to the effect that he will faithfully account for all moneys collected by him and perform the duties of his office according to law. The commissioners shall have power at any time to remove from office any supervisor who shall fail, neglect or refuse to perform the duties of his office.

Supervisor may  
be removed.

Road tax and  
labor.

Sec. 19. There shall be levied and collected on all taxable property in the county the sum of not less than one mill nor more than two mills on the dollar; also a special road tax of three dollars on each able-bodied man between the ages of twenty-one and forty-five years residing in each district. *Provided*, That any person liable to pay road tax, either special or *ad valorem*, may work out such tax under the directions of the supervisor of the district where such person resides, and shall be allowed for such work the sum of three dollars per day, and *provided, further*: That if the special road tax in any road district is sufficient to keep the public roads in good order, the supervisor may refuse to receive labor for the *ad valorem* road tax, and the same shall be paid into the county treasury for the benefit of the general road fund. The several county treasurers are hereby authorized and empowered to collect all road tax, both special and *ad valorem*, levied in each year as required by law for the collection of revenue. *Provided*, That any person producing the supervisor's certificate for labor done and performed, or for material furnished on any road or bridge, by order of said supervisor, shall be allowed the same on his road tax; *Provided, also*, That no special road tax shall be required from any member of any organized fire company of any village or city.

Collection of  
road tax.

Sec. 20. The supervisor must notify every person within his road district, subject to road labor as aforesaid, to perform one day's work in each year upon the public roads, and if any person subject to road labor as aforesaid shall, after three days' notice, either personally, or by writing left at his usual place of abode, by the supervisor or any other person under his direction, neglect or refuse to attend by himself or suitable substitute, at the time and place designated by the supervisor, or having attended, shall refuse to obey the directions of the supervisor, or shall pass his time in idleness or inattention to the labor or duties assigned him, every such delinquent shall thereby become liable for the amount of his road tax in money, and if such person has no real estate assessed in his name, it shall be the duty of the supervisor to make complaint before the probate judge or some justice of the peace, setting forth the facts of such notice and refusal to perform the required labor or to pay the money, when, if such charge be sustained after a hearing, the delinquent shall be deemed guilty of a misdemeanor and shall be fined in the amount due from him for road tax together with all costs. Such fine to be collected as in ordinary criminal actions and to be paid to the supervisor for the use of the road fund in his district.

Notice to work,  
and penalty for  
not working.

Collection of  
delinquent tax.

Sec. 21. Every person notified to labor on the public roads, under the provisions of this act, shall be required to appear at the place appointed by the supervisor, at the hour of eight o'clock in the forenoon, with such necessary tools and implements as said supervisor may direct, and work industriously and diligently, doing at least eight hours faithful labor in each day at such work, and in such manner as shall be directed by the supervisor; and such supervisor may, if he deem it necessary, order any resident of his district, from whom road work or

Hours of labor,  
tools, &c.



Power of supervisor to order teams, &c.

tax is due and owing, to furnish a team of horses, mules, or oxen, and wagon, cart, scraper, or plow, to be employed or used on the roads under the direction of such supervisor, and shall allow such person a reasonable compensation for the use of such team, wagon, cart, scraper, or plow, in discharge of any labor due from such person.

Supervisor to open and repair roads.

Sec. 22. The supervisor of roads shall open, or cause to be opened, all public roads which may have been, or may hereafter be laid out and established according to law, in any part of his road district, and shall keep the same in good repair, and if the labor in his district is not sufficient for that purpose, the supervisors shall have power and authority to call out all persons liable to road tax for one more day's labor, and if such labor is not sufficient the board of commissioner are hereby authorized, at their discretion, to appropriate from the general road fund any amount they may see fit for the use and benefit of such district.

Extra labor and money for repairs.

Drains and ditches, penalty for obstructing.

Sec. 23. The road supervisor shall have authority to cut, open or construct such drains and ditches as he shall deem necessary for the making and preserving of such roads, doing as little injury as may be to the lands; and any person stopping or obstructing the drains or ditches so made shall forfeit the sum of twenty dollars, to be recovered by the supervisor in a civil action as before provided. If any person shall feel aggrieved by the act of any supervisor cutting or carrying away any timber or stone as aforesaid, he may make complaint in writing to the county commissioners who shall allow any damages they may see fit, and pay the same out of the road fund. The county commissioners may authorize the supervisors to purchase any plows, scrapers or other instruments that they may think proper, for the use of the road district, and pay for same out of general road fund.

Damages for acts of supervisor.

Purchase of implements.

Sec. 24. If, at any time during the year, any public road shall become obstructed by snow, or from any other cause, or any bridge shall need repairing, or become dangerous for the passage of teams or travelers, the supervisor of the road district, upon being notified thereof, shall forthwith cause such obstruction to be removed, or bridge repaired, for which purpose he shall immediately order out such number of inhabitants of his district as he may deem necessary to remove such obstruction or to repair such bridge; and all persons so ordered out shall, after having received one day's notice, be subject to the same restrictions and liable to the same penalties as if ordered out under section twenty-one of this act.

Removing obstructions and repairing bridges.

Sec. 25. In all cases under the preceding section, where any person has performed labor on the public roads in removing obstructions or repairing bridges, the supervisors shall give such person a certificate, specifying the amount of extra labor so performed, which certificate may be transferred and received in discharge of the labor of any other person within the same district to the amount of labor specified in such certificate, or may be received from the holder in satisfaction of labor on the roads in such district at any subsequent year for the amount of labor specified therein.

Credit for extra labor.

Sec. 26. Every supervisor of roads shall receive for each day necessarily employed in the performance of any of the duties required by this act, the sum of three dollars, to be paid out of the general road fund; and it shall be the duty of the supervisor to report to the board of county commissioners, at their regular meetings in December, in each year, a sworn statement of all moneys collected by them; they shall also present a sworn statement of the number of days of work done in their district for each year and by whom performed.

Pay and reports of supervisor.

**Of actions against delinquents. Presumption.**

**No property exempt.**

Sec. 27. In an action by the supervisor to re-cover a delinquent special road tax as herein provided, the presumption shall be that the defendant was duly warned to work the road, and failed and neglected so to do, and that he had no real property listed to him during the current year. No property is exempt from execution and sale for a delinquent road tax.

**Supervisor fined for neglect of duty or signing false certificate.**

Sec. 28. Any supervisor of roads who shall neglect or refuse to perform the several duties enjoined upon him by this act, or who shall, under any pretense whatever, give or sign any receipt or certificate purporting to be a receipt or certificate for money paid or labor performed, unless the money shall have been paid or the labor performed prior to the giving or signing such receipt or certificate, shall forfeit for each offense not less than five nor more than twenty dollars, to be recovered before any court having jurisdiction; and it shall be the duty of the county commissioners to sue for the same in the name of the county.

**Pay of surveyor.**

Sec. 29. Every person employed as surveyor under this act shall receive as compensation the sum of seven dollars per day, and each viewer the sum of three dollars per day for each day necessarily employed in such labor in surveying or laying out roads under the supervision of the county commissioners.

**Distance of county roads apart.**

**Stock and timber roads.**

Sec. 30. County roads running parallel shall not be nearer than one mile, and upon the presentation of a petition signed by at least five freeholders of any neighborhood praying for passage to the various water courses for stock purposes, the commissioners may, at their discretion, establish such passageway as provided for in section thirteen of this act. This section shall also apply to the opening and establishment of neighborhood roads running to timber.

Sec. 31. Every supervisor shall erect or cause to be erected and keep up at the forks of every highway and every crossing of public roads within his district, a guide or finger board, containing an inscription in legible letters, directing the way and specifying the distance to the next town or public place situated on each road respectively. Guide boards.

Sec. 32. That chapter LIII. of the codified statutes in relation to "Roads and Highways," and "Roads, Districts, and Supervisors," and all other acts or parts of acts in conflict with this act, be and the same are hereby repealed. Conflicting acts repealed.

Sec. 33. That this act shall take effect and be in force from and after its passage.

Approved February 12, 1874.

#### SCHOOLS.

AN ACT to provide for a system of Common Schools.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. A superintendent of public instruction shall be appointed by the governor, by and with the advice and consent of the legislative council, and shall enter upon the duties of his office on or before the twentieth day after his appointment, and shall hold office for the term of two years, or until his successor is appointed and qualified; and shall execute a bond in the penal sum of two thousand dollars, with two good and sufficient securities to be approved by the secretary of the territory, conditioned upon the faithful discharge of his official duties. The superintendent of public instruction shall have power to adopt a course of studies Superintendent of public instruction; appointment and term of office. Powers of.

Report of.

and rules and regulations for all public schools in the territory; and shall have and use a seal, and authorize the printing of all regulations and circulars necessary to carry their provisions into effect; and shall report to the governor biennially, on or before the first day of December of the years in which the regular sessions of the legislature are held. The governor shall transmit said report to the legislature, and, whenever it is ordered printed, a sufficient number of copies shall be delivered to the superintendent of public instruction, to furnish two copies to be deposited in the territorial library, and one copy to each superintendent of common schools, to be held by him as public property, and delivered to his successor in office; and one copy to each local school officer within the territory. Said report shall contain a statement of the condition of the public schools in the territory, full statistical tables by counties, showing, among other statistics, the number of school children in the territory, the number attending public schools, the average attendance, the number attending private schools, and the amount raised by county and district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers and for building and furnishing school-houses, and the statement of the plans for the management and improvement of schools.

To furnish school officers with forms and register.

Sec. 2. The superintendent of public instruction shall prepare and cause to be printed suitable forms for making all reports and conducting all necessary proceedings under this act, and shall transmit them to the local school officers and teachers, who shall be governed in accordance therewith; he shall furnish each superintendent of common schools with suitable diplomas and certificates, and shall prepare a school register, which shall be fur-

nished to each school and school district in the territory.

Sec. 3. It shall be the duty of the superintendent of public instruction to travel in the different counties of the territory where common schools are taught, 'so far as possible, without neglecting his other official duties, during at least three months in each year, for the purpose of visiting schools, of consulting with county superintendents, and of addressing public assemblies on subjects pertaining to public schools; and his necessary traveling expenses, not exceeding three hundred dollars in any one year, shall be paid out of any funds in the treasury not otherwise appropriated.

To visit schools in territory.

Traveling expenses paid.

Sec. 4. The superintendent of public instruction shall keep his office at some place where there is a post office, and he shall receive a salary of twelve hundred dollars per annum, which shall be paid quarterly out of the territorial treasury.

Place of office and salary.

Sec. 5. All necessary expenditures of money incurred by the superintendent of public instruction, for rent, fuel, postage, printing, expressage not exceeding two hundred dollars in any one year, shall be paid out of any fund in the treasury not otherwise appropriated, and the territorial auditor is hereby authorized to issue his warrant on the treasurer for the same.

Expenses of office.

Sec. 6. The superintendent shall, at the expiration of his term of office, deliver over, on demand, to his successor, all property, books, documents, maps, records, reports and other papers belonging to his office, or which may have been received by him for the use of his office.

Property of office delivered to successor.

Sec. 7. It shall be the duty of the county treasurer of each county:—First. To receive and hold all school moneys as a special deposit, and to keep a separate account of their disbursement to the several school districts which shall be entitled to re-

Duty of county treasurer.

ceive them, according to the apportionment of the county superintendent of common schools. Second. To notify the county superintendent of common schools of the amount of county school fund in the county treasury, subject to apportionment, whenever required; and to inform said superintendent of the amount of school moneys belonging to any other fund subject to apportionment. Third. To pay all warrants drawn on county or district school moneys, in accordance with the provisions of this act, whenever such warrants are countersigned by the district clerk and properly endorsed by the holders. Fourth. To make, annually, during the month of September of each year, a financial report, for the last preceding school and fiscal year ending with August 31st, to the county superintendent of common schools, in such form as may be required by him.

County super-  
intendent. Sec. 8. A county superintendent of common schools shall be elected in each organized county in this territory at the general election preceding the expiration of the term of office of the present incumbent, and every two years thereafter, who shall take office on the first Monday in December next succeeding his election, and hold for two years, or until his successor is elected and qualified. He shall take the oath or affirmation of office, and shall give an official bond to the county, in a sum to be fixed by the board of county commissioners of said county. The county commissioners of any county shall, by appointment, fill any vacancy that may occur in the office of county superintendent until the next general election.

Oath of office  
and bond.

Vacancy, how  
filled.

Appportionment  
of school mon-  
eys. Sec. 9. The county superintendent shall apportion all school moneys to the school districts, in accordance with the provisions of this act, quarterly, and he may make apportionments at such other times as may be required or deemed necessary for

the convenience of school officers. He shall certify to the several district clerks and county treasurers the amount so apportioned to the several districts, and the trustees shall draw their warrants on the county treasurer in favor of persons entitled to receive the same. Such warrant shall show for what purpose the money is required, and no such warrant shall be drawn unless there is money in the treasury to the credit of such district.

Sec. 10. The county superintendent shall have power and it shall be his duty:—First. To visit each school in his county at least once a year. Sec-<sup>Powers and duties of county superintendent</sup>ond. To distribute promptly all reports, laws, forms, circulars and instructions which he may receive for the use of school officers and teachers, from the superintendent of public instruction. Third. To report to the superintendent of public instruction annually during the month of October for the school year ending August 31st, next preceding, such statistics as may be required of him. Fourth. To examine all persons who wish to become teachers in his county, and if they are competent and are of good moral character, he shall give such persons a certificate, certifying the relative standing in each study required by law to be taught in the public schools, and such other studies as may be authorized by the trustees of the district in which the applicant proposes to teach, and that he or she is qualified to teach in said county. Such certificate shall hold good for the term of two years, but may be revoked sooner by the superintendent for good cause. The superintendent shall receive the sum of two dollars from all teachers examined by him. Fifth. To enforce the course of study adopted by the territorial superintendent of public instruction. Sixth. To enforce the rules and regulations required in the examination of teachers. Seventh. To keep on file and preserve in his office the bien-



nial report of the superintendent of public instruction. Eighth. To keep in a good and well bound book, to be furnished by the county commissioners, a record of his official acts. Ninth. To carefully preserve all reports of school officers and teachers, and, at the close of his term of office, deliver to his successor all records, books, documents and papers belonging to the office, taking a receipt for the same, which shall be filed in the office of the county clerk.

Penalty for failure to make reports.

Sec. 11. If the county superintendent fails to make a full and correct report to the superintendent of public instruction, of all statements required to be made by law, he shall forfeit the sum of one hundred dollars from his salary, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid, upon information from the superintendent of public instruction that such reports have not been made.

Power to administer oaths as to official matters.

Sec. 12. The county superintendent shall have power to administer oaths and affirmations to school trustees, assessors, collectors, teachers, and other persons, in all official matters connected with or relating to schools, but shall not have power to make or collect any charge or fee for so doing.

School officers appointed by when.

Sec. 13. The county superintendent shall have power, and it shall be his duty, to appoint trustees and district clerk for any district which from any cause fails to elect at the regular time; to appoint trustees and district clerk to fill vacancies; to appoint trustees and district clerk for any new district. *Provided, however,* that when a new district is organized, such of the trustees and district clerk of the old district as reside within the limits of the new one shall be trustees and district clerk of the new one, and the vacancies in the old district shall be filled by appointment.

Sec. 14. It shall be the duty of every county superintendent to inquire and ascertain whether the boundaries of school districts in his county are definitely and plainly described in the records of the county board of commissioners, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting, or incorrectly described, he shall change, harmonize, and describe them, and make a report of such action to the commissioners; and, on being ratified by the commissioners, the boundaries and descriptions so made shall be the legal boundaries and descriptions of the districts of that county. The county superintendent shall furnish the several district clerks with descriptions of the boundaries of their respective districts.

Sec. 15. Each county superintendent, except when otherwise provided by statute, shall receive such salary and his reasonable traveling expenses, not to exceed ten dollars per district, to be estimated and allowed by the board of county commissioners, which shall be paid quarterly out of the county general fund, in the same manner as other county officers are paid. *Provided*, That such compensation shall not exceed the sum of one dollar for each school census scholar in his county, exclusive of traveling expenses, and that he shall be allowed in addition to his salary a sum for postage and expressage, payable out of the county school fund, equal to one dollar for each school district in his county.

Sec. 16. For the purpose of organizing a new district or for the sub-division of or change in the boundaries of an old one, except as provided in section (14) fourteen, at least five heads of families must present a petition to the county superintendent, setting forth the boundaries of the new district asked

for, or the change of the boundaries desired, with the reasons for the same. The county superintendent shall, after giving due notice to all parties interested, transmit the petition to the board of county commissioners, with his approval or disapproval, and such changes in the boundaries as he may deem necessary or advisable. The commissioners shall establish the district as approved by the county superintendent, provided, that by a vote of the board they may establish the district in accordance with the original prayer of the petition, or with such modification as they may choose to make, or may reject it. In any case of alleged hardship, any head of family, parent or guardian, may make a statement of the facts to the board of commissioners, and if, in the judgment of the board, good cause be shown for such transfer, he may be transferred to another district.

County commissioners to establish district.

Of transfer to another district

When new district entitled to public moneys.

Taxes of old district collected in new.

Sec. 17. No new district formed by the subdivision of an old one shall be entitled to any share of the public moneys belonging to the old district, until a school has been actually commenced in such new district, and unless within eight months from the action of the commissioners a school is opened, then the action making a new district shall be void, and all elections or appointment of trustees made in consequence of such action, and all rights and offices of the parties so elected or appointed shall cease and determine; and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of the new district, and shall be collected and paid into the school fund of the district.

New district formed by division of old one.

Sec. 18. When a new district is formed by the division of an old one, it shall be entitled to a just share of the school moneys to the credit of the old district, after the payment of all outstanding debts at the time when a school was actually commenced

in such new district; and the county superintendent shall divide and apportion such remaining moneys, and such as may afterwards be apportioned to the old district, according to the number of census children resident in each district, for which purpose he may order a census to be taken.

Sec. 19. Whenever a district is formed lying partly in two adjoining counties, the clerk of the district shall report to each county superintendent the number of children in the district residing in his county. In the same manner the trustees and teacher shall make a distinct and separate report of all school statistics; and a teacher's certificate, granted by the county superintendent of one county, shall be valid for both counties.

*District partly in different counties, clerk of district to report, &c.*

Sec. 20. The board of trustees of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district, or in their own names as trustees of the district, to convey by deed all the interest of their district in or to any school-house or lot directed to be sold by vote of the district; and all conveyances of real estate made to the district or to the trustees thereof, shall be made to the board of trustees of the district, and to their successors in office. Said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district.

*Power of trustees as to school property and transacting school business*

Sec. 21. An annual school meeting for the election of school trustees and district clerk shall be held in each district on the last Saturday in August of each year, at the district school-house, if there be one, and if there be none, at a place to be designated by the board of trustees. The trustees shall post written or printed notices thereof, specifying the day, time, and place of meeting in at least three public places in the district, one of which shall be

*Meeting for electing school trustees.*

*Notice of election.*

the school-house, at least six days previous to the time of meeting; but no such meeting shall be illegal for the want of due notice. All elections shall be held by ballot, and the trustees shall have power to determine the hours which the ballot box shall be kept open, having giving due notice thereof, in the posted notice of election. Every elector legally qualified to vote at any general election, being a resident of the school district and a taxable inhabitant thereof, shall be entitled to vote. Any person offering to vote may be challenged by any legally qualified elector of the district, and the chairman of the board of trustees shall thereon administer to the person challenged an oath, in substance as follows: "You do swear (or affirm), that you are a citizen of the United States, that you are twenty-one years of age, according to the best of your information and belief; that you have resided in this territory twenty days next preceding this election, and that you are a taxable resident of this school district, and that you have not before voted this day." If he shall refuse to take the oath, his vote shall be rejected; and any person guilty of illegally voting shall be punished as provided in the general election law of this territory. The trustees shall be the inspectors and judges of election, and if they are not present at the time for opening the polls, then the electors present may appoint the officers of election. A poll and tally-list shall be kept by the clerk of the board of trustees, and, with the exceptions mentioned in this section, the election shall be conducted, as far as practicable, in the form and manner of the general election. Any one of the old trustees shall have power to administer to any trustees-elect the oath of office, and the clerk of election shall issue the certificate of election to any trustees-elect, who shall forward it, with the oath attached or indorsed thereon, to the county superintendent of public schools.

Elections—how held.

Qualification of electors.

Judges of election.

Manner of conducting.

Sec. 22. In all organized districts in which elections have been previously held, one trustee shall be elected for the term of three years, and if there are vacancies to be filled, a sufficient number to fill them for the unexpired terms; and the ballots shall specify the respective terms for which each trustee is to be elected. In new districts acting under trustees appointed by the county superintendent, three trustees shall be elected for one, two and three years, respectively. Trustees-elect shall take office immediately after qualifying, and shall hold office until their successors are elected and qualified, or appointed by the county superintendent and qualified. Any trustee-elect who shall fail to qualify within ten days after being elected, shall forfeit all right to the office, and the county superintendent shall appoint to fill the vacancy.

Term of office  
of trustees.

Sec. 23. Whenever any new district is formed by ordinance of the board of commissioners, within thirty days thereafter a special school meeting may be called by notice of any three legal voters of said district, and such meeting shall be conducted in the manner and form prescribed in this act for the annual school meeting for the election of trustees. Such new district shall be considered organized whenever any two of the trustees elected shall have qualified; and the record of the district clerk shall be *prima facie* evidence of the legal organization of the district, and the district shall be designated by numbers.

When new district formed  
special school  
meeting called.

Sec. 24. No district school meeting, annual or special, shall be organized before nine o'clock A. M., or closed before twelve o'clock M., or kept open less than one hour, and in all districts in which the number of youth and children between four and twenty-one years of age equals or exceeds three hundred, the polls shall be kept open from two o'clock P. M., until sunset.

When polls to  
be open.

Duty of district  
clerk to keep  
record, &c.

Sec. 25. It shall be the duty of the district clerk to record all proceedings of the board in a suitable record-book; to record in the same book the proceedings of the annual school meetings, or of special school meetings, and to keep an accurate and detailed account of all receipts and expenditures of school moneys. At each annual (school) meeting the district clerk shall present his record-book for public inspection; shall make a statement of the financial condition of the district, and of the action of the trustees, provided, that the record shall be open to the inspection of the public.

Powers and du-  
ties of school  
trustees.

Sec. 26. Every board of trustees, unless otherwise especially provided by law, shall have power, and it shall be their duty: First, to employ, and, for sufficient cause, dismiss teachers, mechanics, and laborers, and to fix, alter, allow, and order paid their salaries and compensation; second, to enforce the rules and general regulations of the territorial superintendent of public instruction for the government of schools, pupils, and teachers, and to enforce the course of study adopted in pursuance of territorial law; third, to provide and pay for school furniture and apparatus and such other articles, materials and supplies as may be necessary for school use or for the use of the school board; fourth, to suspend or expel pupils from school, and in cities or large towns to exclude from school (children) under six years of age, where the interests of the school require such exclusion; fifth, to rent, furnish, repair and insure school houses; sixth, to build or remove school houses, and purchase or sell school lots, when the trustees may be directed by a vote of the district so to do; seventh, to purchase personal property, and to receive, lease, and hold in fee, in trust for their district, town, or city, any and all real or personal property for the benefit of the schools thereof; eighth, to provide books for indi-

gent children on the written statement of the teacher that the parents of such children are not able to purchase them; ninth, to require all pupils to be furnished with suitable books, as a condition of membership in the school; tenth, to exclude from school and school libraries all books, tracts, papers, or catechisms of a sectarian or political character; eleventh, to require every teacher to keep a school register; twelfth, to require teachers to make such annual report as may be required by the superintendent of public instruction; thirteenth, to make an annual report during the month of September of each year for the school year next preceding, to the county superintendent, in the manner and form and on the blanks prescribed by the superintendent of public instruction; fourteenth, to make a report, whenever required, directly to the territorial superintendent of public instruction, of the text books used in their schools.

Sec. 27. It shall be the duty of the district clerk to take annually, between the twentieth and thirtieth days of November of each year, an exact census of all children and youth over four and under twenty-one years, residing in the district, and shall specify the number and sex of such children, and the names of their parents or guardians. He shall take, specifically and separately, a census of all children under four years of age, and shall specify the number and sex of such children. All children who may be absent from home attending boarding schools and private seminaries of learning shall be included by the district clerk in the census list of the city, town, or district in which their parents reside, and shall not be taken by the district clerk of the city, town, or district where they may be attending such private institution of learning. He shall make a full report thereof on the blanks furnished for that purpose, under oath, to the county superin-

School census  
taken annually

Report of same.



tendent, on or before the first day of December thereafter, and deliver a copy to the school trustees. The district clerk shall be paid by the board of trustees from the county school money, to the credit of the district, in the same manner as other contingent expenses are paid, at a rate not exceeding ten cents for each name returned by him.

**Pay for taking.** Sec. 28. The district clerk of each district shall provide all school supplies authorized by this act, and shall keep the school house in repair during the time school is taught therein, and shall keep an accurate record of all expenses (incurred) by him on account of the school, which account shall be audited by a majority of the board of trustees, and paid out of the county school moneys of that district.

**District clerk to provide supplies and keep account of expenses.** Sec. 29. Any board of trustees shall be liable, as trustees, in the name of the district, for any judgment against the district, for any salary due any teacher on contract, and for all debts legally contracted under the provisions of this act, and they shall pay such judgment or liabilities out of the school moneys to the credit of such district.

**Liability of trustees for salary of teacher.** Sec. 30. Any board of trustees shall have power to make arrangements with the trustees of any adjoining district for the attendance of such children in the school of either district as may be best accommodated therein, and to transfer the school moneys due by apportionment to such children to the district in which they may attend school.

**Attendance of children from other district.** Sec. 31. Every school, unless otherwise provided by special law, shall be open for the admission of all children between five and twenty-one years of age, residing in that school district, and the board of trustees shall have power to admit adults and children not residing in the district, whenever good reasons exist for such exceptions.

**What children admitted.** Sec. 32. All schools shall be taught in the English language, and instructions shall be given in

the following branches, viz: Reading, writing, orthography, arithmetic, geography, English grammar, and history of the United States, and such other studies as may be deemed necessary may be authorized by the trustees of the district. Instructions shall be given during the entire school course in manners and morals and the laws of health, and due attention shall be given to such physical exercises for the pupils, as may be conducive to health and vigor of body, as well as mind, and to the ventilation and temperature of school rooms.

Sec. 33. The education of children of African descent shall be provided for in separate schools. Upon the written application of the parents or guardians of at least ten such children to any board of trustees, a separate school shall be established for the education of such children, and the education of a less number may be provided for by the trustees, in separate schools, in any other manner, and the same laws, rules and regulations which apply to schools for white children shall apply to schools for colored children.

Sec. 34. No books, tracts, papers, catechisms, or other publications of a partizan, sectarian, or denominational character, shall be used or distributed in any schools, neither shall any political, sectarian, or denominational doctrine be taught therein; and any school district, the officers of which shall knowingly allow any school to be taught in violation of these provisions, shall forfeit all right to any county apportionment of school moneys, and, upon satisfactory evidence of such violation, the county superintendent shall withhold its county apportionment.

Sec. 35. The school-day shall be six hours in length, exclusive of an intermission at noon; but any board of trustees may fix, as the school-day, a less number of hours than six, *Provided*, it be not less

than four, for any primary school under their charge, and any teacher may dismiss any and all scholars under eight years of age, in any incorporated village, town, or city, after an attendance of four hours a day, exclusive of an intermission at noon.

**Pupils to comply with rules of school.** Sec. 36. All pupils who may be attending public schools shall comply with regulations established in pursuance of law for the government of such schools; shall pursue the required course of study, and shall submit to the authority of the teachers of such schools. Continued and willful disobedience, and open defiance of the authority of the teacher, shall constitute good cause for expulsion from school; and habitual profanity and vulgarity, good cause for suspension from school. Any pupil who shall in any way cut, deface, or otherwise injure any school-house, fences, or out-buildings thereof, shall be liable to suspension and punishment, and the parents or guardians of such pupil shall be liable for damages, on complaint of the teacher or trustees.

**Causes for suspension or expulsion.**

**Reports to be made by teachers.** Sec. 37. Every teacher employed in any public school shall make an annual report to the county superintendent on or before September first next after the close of each school year, in the form and manner and on blanks prescribed by the superintendent of public instruction. A duplicate of such report shall be furnished to the district clerk. Any teacher who shall end any school-term before the close of the school-year shall make a report to the county superintendent immediately after the close of such term, and any teacher who may be teaching any school at the close of the school-year shall, in his or her annual report, include all statistics from the school register for the entire school-year, notwithstanding any previous report for a part of the year. Teachers shall make such additional reports as may be required, in pursuance of law, by the territorial superintendent of public instruction. No

board of trustees shall draw any order or warrant for the salary of any teacher for the last month of his or her services, until the reports herein required shall have been made and received. Teachers not paid salary until report made.

Sec. 38. Every teacher shall keep a school register in the manner provided therefor, and no board of trustees shall draw any warrant for the salary of any teacher for the last month of his or her services in school at the end of any term or year, until they shall have received a certificate from the district clerk that the said register has been properly kept, the summaries made and statistics entered, or until, by personal examination, they shall have satisfied themselves that it has been done. Teachers shall faithfully enforce, in school, the course of study, and the regulations prescribed in pursuance of law; and if any teacher shall willfully refuse or neglect to comply with such requisition, then the board of trustees shall be authorized to withhold any warrant for salary due until such teacher shall comply therewith. No teacher shall be entitled to draw for salary and school moneys, unless such teacher shall be employed by a majority of the trustees, nor unless the holder of a legal county teacher's certificate, in full force and effect. Teacher to keep register. To enforce course of study. When salary shall not be drawn.

Sec. 39. In every contract, whether written or verbal, between any teacher and any board of trustees, a school month shall be construed and taken to be twenty school days, or four weeks of five school days each, and no teacher shall be required to teach school on Saturdays, the fourth day of July, the first day of January, Christmas day, and no deduction from the teacher's time or wages shall be made by reason of the fact that a school day happens to be one of the days referred to in this section, as a day on which school shall not be taught. Any contract made in violation of the provisions of this section shall have no force or effect as against the teacher. School month defined.

Power of teacher over pupil in school and out.

Sec. 40. Every teacher shall have power to hold every pupil to a strict accountability in school, for any disorderly conduct on the way to or from school, or on the play-grounds of the school, or during intermission or recess; to suspend from school any pupil for good cause, *Provided*, That such suspension shall be reported by the teacher to the trustees, as soon as practicable, and their decision shall be final.

Duty of teacher to instruct in morals, &c.

Sec. 41. It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, and patriotism; to teach them to avoid idleness, profanity, and falsehood, and to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties, and dignity of American citizenship.

School funds accruing from sales of lands.

Sec. 42. The principal of all moneys accruing to this territory, from the sale of any land which may hereafter be given by the congress of the United States, for school purposes, shall constitute an irreducible fund, the interest accruing from which shall be annually divided among all the school districts in the territory, proportionally to the number of youth or children in each, between the ages of four and twenty-one years, for the support of common schools in said districts, and for no other use or purpose whatever.

Tax for sustaining schools.

Sec. 43. For the purpose of establishing and maintaining common schools, it shall be the duty of the county commissioners of each county to lay an annual tax of not less than three, nor more than five mills, on the dollar, on all taxable property within their respective counties, as shown by the assessment rolls made by the county assessor for the same year; and to include the same in their warrant to the collector; and the said collector shall proceed to collect the said tax, in the same manner as the other

Tax, how collected.

county tax is collected; and the said money so collected shall be paid over to the county treasurer, to be drawn in the manner prescribed in this act; neither shall it be lawful for any county treasurer to receive county orders in payment of county school tax, nor to pay out any school money on county orders. For the further support of common schools there shall be set apart by the county treasurer all moneys paid into the county treasury, arising from all fines for a breach of any law regulating license for the sale of intoxicating liquors, or for the keeping of bowling alleys, or billiard saloons, or of any penal laws of this territory. Such moneys shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by tax in each county and divided in the same manner.

Fines set aside  
for support of  
schools.

Sec. 44. (That it shall be the duty) of the county clerks of the several counties of the territory, to make a report to the county superintendent of common schools within their counties during the month of September of each year, of the school tax levied and the assessed valuation of the proper counties for that year, and that it be the duty of the clerk of the district court, at the close of every term thereof, to report to the county superintendent of the county in which said term shall have been holden, whether or not any fines, and if any, what ones, were imposed by the said court during the said term, and that it be the duty of the probate judge and of all justices of the peace, to report to the county superintendent of their respective counties, during the month of September, of each year, whether or not they have imposed and collected any fines during the preceding year; and if any, what ones, with the date at which the same were paid to the county treasurer; and all officers mentioned in this act who shall fail or neglect to perform any of the duties required by this

Officers to re-  
port fines col-  
lected.

Penalty for  
neglect of offi-  
cers under this  
act.

act shall be deemed guilty of a misdemeanor, and upon conviction before any court having competent jurisdiction thereof, shall be fined in any sum not less than twenty dollars, and not more than one hundred dollars for each neglect, and such fine shall be paid into the county treasury for the benefit of common schools in said county.

High school  
may be estab-  
lished.

Sec. 45. Whenever the interests of the districts require it, the board of trustees may establish a high school, employ a principal teacher and subordinate teachers, and grade the school into departments and classes.

Tax for new  
school-house,  
repairs, etc.

Sec. 46. The board of trustees of any district may, when in their judgment it is advisable, submit to the qualified electors of the district the question whether a tax shall be raised to furnish additional school facilities for said district, or to maintain any school or schools in such district, or for building one or more school-houses, or for removing or building additions to one already built, or for the purchase of globes, maps, charts, books of reference, and other appliances and apparatus for teaching, or for any or all of these purposes. Such election shall

Submitted to  
vote, etc.

Notice of elec-  
tion in such  
case.

be called by posting notices in three of the most public places in the district for at least twenty days. Said notices shall contain the time and place of holding the election, the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used. The trustees shall act as judges to conduct the election, and it shall be held in all other respects, as nearly as practicable, in conformity with the general election law. At such elections, the

Form of ballot,  
form of return,  
etc.

ballots shall contain the words: "Tax, Yes," or "Tax, No." If a majority of the votes cast are "Tax, Yes," the officers of the election shall certify the fact to the district clerk, who shall at once proceed to copy from the last assessment roll of the county assessor the list of property liable to taxa-

tion, situated in or owned by residents of his district, and shall deliver the same to the board of trustees, who may allow him a reasonable compensation therefor, out of the proceeds of said tax; said compensation not to exceed six dollars per day. The trustees shall, upon receiving the roll, deduct ten per cent therefrom for anticipated delinquencies, and then by dividing the sum voted, together with the estimated cost of assessing and collecting added thereto, by the remainder of the roll, ascertain the rate per cent required, and the rate so ascertained [using the full cent on each one hundred dollars in place of any fraction] shall be, and is hereby, levied and assessed to, on, or against the persons or property named or described in said roll; and it shall be a lien on all such property until the tax is paid, and said tax, if not paid within the time limited within the next section for its payment, shall be recovered by suit in the same manner and with the same costs as delinquent territorial and county taxes. The trustees, upon receiving any assessment roll from the district clerk, shall give five days notice thereof by posting a notice in three public places in the district, and shall sit for at least one day as a board of equalization, at such time and place as shall have been named in said posted notices; and they shall have the same power as county boards of equalization to make any change in said assessment roll.

Tax lien on property.

Notice when assessment roll received from clerk.

Sec. 47. As soon as the rate of taxation has been determined, as provided in the last preceding section, the trustees shall certify the same to the county clerk, who shall extend the same upon the general assessment roll of the county, and certify the same to the county treasurer, who shall proceed to collect the tax, in the same manner and at the same time and with the same power and authority to enforce payment of the same, as in the case of county

County treasurer to collect tax in same manner and time as other tax is collected.



and territorial taxes. The county treasurer shall place any tax so collected to the credit of the district to which it belongs, and shall receive as compensation for collecting the same such sum, not more than five per cent of the tax collected, as may be allowed by the county commissioners; said compensation to be paid from the amount of said district tax so collected.

Apportionment  
of school mon-  
ey.

Sec. 48. All county school moneys apportioned by county superintendents of common schools shall be apportioned to the several districts in proportion to the number of school census children between four and twenty-one years of age, as shown by the returns of the district clerk, for the next preceding school year; *Provided*, That Indian children, who are not living under the guardianship of white persons, shall not be included in the apportionment list.

School moneys  
—how used.

Sec. 49. County school moneys may be used by the county superintendent and trustees for the various purposes as authorized and provided in this act, and for no other purpose.

School district  
not to have  
school moneys  
unless teacher  
holds certifi-  
cate.

Sec. 50. No school district shall be entitled to receive any apportionment of county school moneys, unless the teacher employed in the schools of such districts shall hold legal certificates of fitness for the occupation of teaching, in full force and effect.

School must be  
kept to entitle  
district to mon-  
ey.

Sec. 51. No school district shall be entitled to receive any apportionment of county school moneys which shall not have maintained a free public school for at least three months during the next preceding school year; *Provided*, That any new district, formed by the division of an old one, shall be entitled to its apportionment, where the time that school was maintained in the old district, before division, and in the new one after division, shall be equal to at least three months.

Sec. 52. When any school officer is superseded by election or otherwise, he shall immediately deliver to his successor in office all books, papers and moneys pertaining to his office; and every such officer who shall refuse to do so, or who shall wilfully mutilate or destroy any such books (or papers) or any part thereof, or shall misapply any moneys intrusted to him by virtue of his office, shall be guilty of a misdemeanor, and shall be punished by a fine, in the discretion of the court, not exceeding one hundred dollars.

Duty of school officer going out of office.

Penalty for his misconduct.

Sec. 53. Every person elected or appointed to any office mentioned in this act shall, before entering upon the discharge of the duties thereof, take an oath to support the constitution of the United States, the organic act of this territory, and to promote the interests of education, and faithfully discharge the duties of his office, according to the best of his abilities. In case such officer has a written appointment or commission, his oath shall be endorsed thereon, otherwise it may be taken orally. In either (case) it may be sworn to before any officer authorized to administer oaths; and school officers are hereby authorized to administer all oaths relative to school business, appertaining to their respective offices, without charge or fee.

Oath of officer under this act.

Sec. 54. No school trustee or other school officer shall be, directly or indirectly, interested in any contract made by the board of which he is a member; and any contract made in violation of this provision shall be null and void.

School trustee not to be interested in contract.

Sec. 55. All fines and penalties, not otherwise provided for in this act, shall be collected by an action in any court of competent jurisdiction, and shall be paid into the county school fund immediately after collection.

Fines, how collected.

Sec. 56. Any parent, guardian, or other person, who shall upbraid, insult or abuse any teacher, in

Penalty for abusing teacher.

the presence of the school, shall be deemed guilty of a misdemeanor, and liable to a fine of not less than ten dollars nor more than one hundred dollars.

Penalty for disturbing school or school meeting.

Sec. 57. Any person who shall wilfully disturb any public school or any public school meeting, shall be guilty of a misdemeanor and liable to a fine of not less than ten nor more than one hundred dollars.

Penalty of district clerk failing to take census.

Sec. 58. In case any district clerk shall fail to take the census provided in this act, at the proper time, and if, through such neglect, the district shall fail to receive its apportionment of school moneys, said district clerk shall be individually liable to the district for the full amount so lost, and it may be recovered on a suit brought by any citizen of such district, in the name of and for the benefit of the district.

Disputes of school matters, how settled.

Sec. 59. All cases of dispute in relation to school matters, not properly belonging to courts of justice, may be referred, first, to the county superintendent, and appealed to the territorial superintendent, whose decision shall be final.

School year.

Sec. 60. The school year shall begin on the first day of September, and end on the last day of August.

Printing, etc., under this act.

Sec. 61. All printing or binding required under this act shall be executed in the form and manner and at the prices of other territorial printing, and shall be paid in like manner, out of the general fund of the territory.

Act, how known.

Sec. 62. This act shall be known (and) referred to as the Montana School Law, and no other title or reference shall be necessary.

Former acts repealed.

Sec. 63. That an act to provide for a system of common schools, approved, January 12th, 1872, and

all acts and parts of acts conflicting herewith, are hereby repealed.

Sec. 64. This act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

#### STATISTICS.

AN ACT to provide for the collection of statistics.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That it shall be the duty of the territorial auditor, annually hereafter, to prepare from the official reports, and from whatever other reliable sources to which he may obtain access, as full and intelligible tables of the statistics of Montana as may be in his power, and report the result of his labors to the governor, or the legislative assembly, if in session.

Duty of territorial auditor to compile and report.

Sec. 2. That in order to insure more perfect collection of the statistical information contemplated by this act, it shall be the duty of any territorial or county or other officer, to answer fully and promptly such special and general questions as the territorial auditor may propound in carrying out the intention of this act, and no person shall receive any compensation for answering such questions, except as hereinafter provided.

Duty of territorial and county or other officer to assist auditor

Sec. 3. That the several county and district assessors and deputy assessors shall annually, at the time of taking the list of personal property for taxation, take from each person, company, or corporation, in his own county or district, a statement of the number of acres he or they may have had the preceding year in wheat, rye, barley, corn, oats,

County and district assessors to collect statistics.

peas, buckwheat, and potatoes, and the number of bushels each produced the preceding year; the number of acres in cabbage, rutabagas, turnips, and onions, and the number of pounds produced the preceding year; the number of acres of meadow in cultivation, and the number of tons of hay; the number of milch cows used in dairy, and the number of pounds of butter and cheese produced; the number of sheep, and the number of pounds of wool shorn; the number of apple or fruit trees, and the number of bushels of each kind of fruit produced; the number of ranches, and wages paid per month; gross receipts from placer mines, and wages paid per day; number of quartz mills, and gross receipts of same, with wages paid per day; number of grist mills, and number of sacks of flour manufactured; number of saw mills, and number of thousand feet of lumber cut; number of tan yards, and number of sides of leather manufactured; number of foundries, and number of tons of castings produced; number of wagons manufactured; number of carriages manufactured; number of carpenter shops, and wages paid per day; number of harness and saddlery shops, and value of manufactures; number of blacksmith shops, and wages paid per month; number of silver-smith shops, and wages paid per month; number of coal mines, and number of bushels taken out; number of reduction furnaces, and the number of pounds of bullion produced, and the value thereof; number of butcher shops, and the number of beeves, calves, sheep, and hogs slaughtered; number of pounds of bacon cured; number of births and deaths, and the number of deaths resulting from natural causes, and the number from violence the previous year. The assessor

Assessor to administer necessary oaths,

is hereby authorized to administer all oaths necessary to carry into effect the provisions of this act.

Sec. 4. The several county or district assessors shall make return of all blanks containing statistical information, together with a full abstract of the same, to the territorial auditor, on or before November first, annually; and the territorial auditor is hereby required to cause to be printed all the necessary blanks to enable the assessors to carry into effect the provisions of this act, and to furnish the same to the clerks of the several counties, and the clerks of the several counties are hereby required to cause to be distributed to the assessor or assessors of their respective counties the said blanks, and take a receipt for the same.

Assessor to return statistics to auditor.

Auditor to have blanks printed.

County clerks to receipt for and distribute blanks.

Sec. 5. The clerks of the several counties shall be entitled to receive each year two dollars for distributing the blanks, as provided in this act, out of the contingent [fund] of their respective counties. Each assessor shall be entitled to receive twenty cents for each blank returned to the territorial auditor, containing statistical information, out of the territorial treasury, out of any money not otherwise appropriated, and the blanks so returned shall be the voucher upon which the territorial auditor shall issue his warrant upon the territorial treasurer.

Compensation of officers under act.

Auditor to issue warrant in payment of fees.

Sec. 6. Any assessor failing to perform his duty, as provided in this act, shall be deemed to have forfeited his office, and be liable to a fine of not more than four hundred, nor less than two hundred dollars. Any clerk failing to perform his duty, as provided in this act, shall be liable to a fine of not less than ten dollars, nor more than fifty dollars. And the territorial auditor is hereby authorized to proceed by a suit at law against any assessor or clerk violating the provisions of this act.

Penalties of officers for neglecting duty under this act.

Sec. 7. All acts and parts of acts in conflict with this are hereby repealed.

Repealing clause.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved February 12th, 1874,

## TOLL ROADS AND BRIDGES.

## TOLL ROADS AND BRIDGES.

AN ACT in relation to toll roads and bridges.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the county commissioners of the several counties of the Territory of Montana shall not be permitted to authorize any person or persons, company or corporation to collect toll on any road or bridge for the benefit of such person or persons, company or corporation.

County commissioners not to authorize toll collected.

Sec. 2. If there shall be any contract or agreement between county commissioners and any person or persons, company or corporation by which the same collect toll, such contract or agreement is hereby revoked and made null and void.

Contracts for toll annulled.

Sec. 3. All public roads or highways claimed by any person or persons, company or corporation, on which toll is collected or taken without having a charter for the same, granted by the legislative assembly of the Territory of Montana, may be taken possession of by the county commissioners of the county in which the same may be; which road shall thereafter be a free public highway.

Toll roads not chartered declared free public highways.

Sec. 4. Any person or persons, company or corporation who shall refuse to surrender such road to the county commissioners of the county in which the same may be, for the use and benefit of the public travel, or shall in any way obstruct or cause to be obstructed, destroy or cause to be destroyed any such road, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than one hundred dollars, or more than one thousand dollars, or imprisonment in the county jail not less than three months, or more than one year, or both such fine and imprisonment at the discretion of the court.

Penalty for refusing to surrender or obstructing public road.

Sec. 5. Any person or persons within this territory, now in the possession of any road or bridge as agent of any corporation, or as owner of any franchise thereon, who shall permit the same to become and remain out of repair, shall forfeit such franchise; and any such agent or owner who shall obstruct or impair any such road or (any) bridge thereon or shall interfere with any such bridge so that the same shall not be convenient and safe for all public travel, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine, not exceeding one thousand dollars, or by imprisonment not exceeding six months; or by both such fine and imprisonment; and all roads, highways and bridges now or heretofore held by virtue of any charter, franchise or other corporate right, upon the expiration of such franchise, are hereby declared public highways and with all the improvements thereon, shall be, from the time of the expiration of such franchise, under the direction of the board of county commissioners of the county in which such road or bridge or other improvement may be.

Franchise of road or bridge forfeited, remaining out of repair.

Penalty for interfering with road or bridge.

Chartered road or bridge public after franchise expires.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved February 13, 1874.



## SPECIAL LAWS.

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AN ACT to authorize the county commissioners of Deer Lodge county, to remove the dead from the cemetery within the limits of the town of Deer Lodge.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. The county commissioners of Deer Lodge county, Montana territory, are hereby authorized to cause to be removed all the dead buried in the cemetery within the limits of the town to the cemetery, situate one mile west of said town.

Dead to be removed from limits of town of Deer Lodge to cemetery.

Sec. 2. The said commissioners are hereby authorized to appropriate any moneys in the town site fund to pay the expenses of such removal, and after all the remains shall have been removed, the ground

Moneys in town site fund used to pay expenses of removal.

now occupied by said cemetery shall be dedicated to public use, and disposed of in the same manner as town lots are disposed of belonging to said town.

Ground now occupied by cemetery to be dedicated to public use.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 18, 1874.

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AN ACT to authorize the county commissioners of Deer Lodge county to appoint a fire warden, and for other purposes.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to appoint, in and for the town of Deer Lodge, a fire warden, whose duty it shall be to examine all chimneys, stoves, stove-pipes, ovens, furnaces, boilers, and appurtenances thereunto belonging.

Commissioners of Deer Lodge county authorized to appoint fire warden for town of Deer Lodge.

Duty of fire warden.

Sec. 2. When any chimney, stove, stove-pipe, oven, furnace, boiler, or appurtenance thereunto belonging are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the fire warden, on complaint of any citizen, being satisfied by examination, or other proof, that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if he neglects, for the period of three days, to remove or repair the same effectually, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before any court having jurisdiction, shall be fined in any sum not less than ten nor more than one hundred dollars. All fines collected under the provisions of this act shall be paid into the county treasury for the benefit of Deer Lodge fire company No. 1.

Proceeding by any duty of, when complaint made of unsafe chimney, &c.

Penalty for keeping unsafe or dangerous chimneys, &c., after notice by fire warden.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 31st, 1874.

AN ACT to provide for the support and maintenance of the Deer Lodge fire department.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to levy a special tax, not to exceed one mill on the dollar of the assessable property within the limits of the town of Deer Lodge, for the support and maintenance of the Deer Lodge fire department.

Commissioners of Deer Lodge county authorized to levy tax to support Deer Lodge fire department.

Sec. 2. That the said county commissioners shall, at their next regular meeting in March, 1874, levy

said tax for the year 1874, and thereafter it shall be levied in the same manner and at the same time as are the general taxes of said county.

Sec. 3. It is hereby made the duty of the county treasurer of Deer Lodge county to collect said tax in the same manner and at the same time as other taxes are collected.

Sec. 4. This tax shall be known as the "Fire tax," and shall be paid by the county treasurer to the treasurer of the Deer Lodge fire company No. 1.

Sec. 5. That the treasurer of said fire company, before any of said tax shall be paid to him as hereinbefore provided, shall file, in the office of the county clerk of Deer Lodge county, a bond executed to the board of county commissioners of Deer Lodge county, with two or more sufficient sureties, to be approved by said board of commissioners, in such penal sum as they may direct, conditioned, that he will faithfully and honestly pay out and disburse all moneys that may be paid by virtue of his office, under the order of said fire department.

Sec. 6. It is hereby made the duty of the treasurer of said fire company to make a fair, correct, and complete statement of his receipts and expenditures as such treasurer, to the board of county commissioners at their annual meeting, or at such time as they may direct.

Sec. 7. That the limits of said town of Deer Lodge shall include what is known as Clagett and Dixon's addition, and all other additions thereto.

Sec. 8. This act shall be in force from and after its passage.

Approved January 28th, 1874.

AN ACT to authorize the County Commissioners of Deer Lodge county to audit certain claims.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to audit certain claims held by John Donnhour, Jerry B. Wilcox, and others, for labor and supplies furnished in building the prison and Deer Lodge road. Commissioners of Deer Lodge county to audit claims of Donnhour and others. *Provided*, That the entire amount shall not exceed the sum of one thousand dollars. All warrants allowed under the provisions of this act shall be paid out of the general fund of said county.

Sec 2. If the claims of said parties named in section one of this act shall exceed the sum of one thousand dollars, the said county commissioners shall pay the same *pro rata*. Claims paid pro rata if more than \$1,000.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 9, 1874.

AN ACT to authorize the County Commissioners of Deer Lodge county to levy a special tax for the purpose of building, buying and repairing bridges.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That the county commissioners of Deer Lodge county be and they are hereby authorized to levy a special tax, not to exceed three (3) mills on the dollar, for the term of three (3) years, upon all property in said county liable to taxation, for the purpose of building, buying and repairing bridges in said county. Commissioners of Deer Lodge county authorized to levy tax to buy bridges, etc.

where the same is proposed to be erected, and the kind of material out of which the same is to be built, and procuring the consent in writing of such board of county commissioners, or two members thereof, to such erection. And any person building or erecting any building aforesaid, within the fire limits aforesaid, after the same shall have been established as aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any court of competent jurisdiction, shall be fined in any sum not exceeding one thousand dollars, or imprisonment in the county jail, not exceeding twelve months, or by both such fine and imprisonment; and such building shall be deemed a public nuisance, and be abated by the sheriff of the county, under the order of the district court.

Penalty for erecting buildings in violation of act.

Sec. 3. That such board of county commissioners shall have power to open, alter, abolish, widen, extend, establish, grade and otherwise keep in repair, all streets, avenues, alleys and lanes, within the limits of such fire district. And when it shall become necessary for the safety of such town, they may, upon petition of one hundred householders of such town, condemn and declare vacant any tract of land, or extend the width of any street or part of street, to any width they may deem proper, not exceeding two hundred feet. And when it shall be necessary to take private property for public use, in so opening, altering, widening, establishing or condemning any tract of land as aforesaid, the county shall make just compensation for the property so taken and condemned. And when the amount of such compensation cannot be agreed on between the county commissioners and the owners thereof, the county commissioners shall cause the same to be assessed by a jury of disinterested persons, who shall be competent jurors of the county. The jury shall, before entering upon the discharge

Power of commissioners as to streets and alleys.

May condemn land.

Private property may be taken when necessary.

Proceedings in case of condemnation.

of their duties, be duly sworn to discharge their duties as such, without favor, and a just and true assessment of damages make, to the best of (their) abilities. And in assessing such damages the jury shall take into such consideration any benefit which such improvements will result in to the balance of any claimant's property, and shall return their inquest in writing to the county commissioners or the clerk of the board. *Provided*, that in all cases, either party may appeal to the district court from any inquest or award made as aforesaid, but such appeal shall not in any manner delay the opening, widening, etc., of any street, or condemning any ground as aforesaid, but the adequacy of damages alone shall be considered. And upon the abolition of any street where the title of the land shall not be vested in some other person the same shall belong to such county, and may be disposed of in the manner of other county property.

Sec. 4. That any person who shall so negligently keep and maintain any flue, pipe, fire or fire-place, in any building or premises within the limits of such fire district of said town, after the same shall have been established, as provided in the first section of this act, that the same shall be unsafe and in danger of communicating fire to such building or adjoining buildings, shall be deemed guilty of maintaining a public nuisance, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars, or imprisonment in the county jail not exceeding ten days, or by both such fine and imprisonment.

*Penalty for  
keeping unsafe  
flues, etc.*

Sec. 5. Every person who shall, within such fire limits as provided in section one of this act, after the same shall have been established, as aforesaid, place and keep large quantities of wood, hay, straw, powder, or other combustible or explosive materials, so as to endanger the dwelling-houses or

*Penalty for  
keeping combustible or  
explosive materials  
carelessly.*

other buildings in the neighborhood from fire, shall be deemed guilty of establishing, or keeping and maintaining a public nuisance, and shall, upon conviction thereof, before any court of competent jurisdiction, be fined in any sum not to exceed one hundred dollars.

Sec. 6. This act shall take effect from and after its passage.

Approved January 24th, 1874.

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AN ACT to provide for the redemption of the funded debt of Lewis and Clarke county.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. The county commissioners of the county of Lewis and Clarke are here authorized to issue bonds and sell the same to the highest bidder for cash, in accordance with the provisions of this act.

Commissioners of Lewis and Clarke county may issue and sell bonds.

Sec. 2. The bonds authorized to be issued in section one of this act shall bear interest at a rate of ten per cent per annum, and shall be of the denomination of one hundred, five hundred, and one thousand dollars, each, in the discretion of the board of county commissioners, and shall be signed by the chairman of the board of county commissioners, and the county treasurer, and shall be sealed and countersigned by the county clerk.

Provisions and directions as to bond.

Sec. 3. The county commissioners of the county of Lewis and Clarke shall cause to be advertised in one or more newspapers of said county, for so long a time as may be necessary, a notice stating at what time any sale of bonds in accordance with the provisions of this act will take place.

Commissioners to advertise notice of sale of bonds.

Sec. 4. The bonds authorized to be issued by this act shall be redeemable at the pleasure of the county, at any time after three years, and payable within seven years from the date of their issue. When bonds redeemable and payable.

Sec. 5. The proceeds of the sale of said bonds shall be paid into the "Sinking Fund," and shall be applied to the payment of the interest on the bonds of said county as the same may become due and payable, and to the redemption of the bonds of said county now outstanding, which may become due and payable, and for the redemption of which a sufficient sum has not accumulated under and by virtue of the provisions of "An Act relating to counties and county officers," approved January 12th, 1872. Proceeds of sales how disposed of.

Sec. 6. All other acts and parts of acts in conflict with the provisions of this act, be and the same are hereby repealed. Acts repealed.

Sec. 7. This act to take effect and be in force from and after its passage.

Approved February 18th, 1874.

AN ACT to provide for the support and maintenance of the Helena fire department.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the county commissioners of Lewis and Clarke county be and they are hereby authorized to levy a special tax, not to exceed one mill on each dollar annually, upon all property within the town of Helena, liable to taxation, both real and personal, for the support and maintenance of the Helena fire department. Commissioners of Lewis and Clarke county authorized to levy tax to support Helena fire department.



Mode of levy-  
ing tax.

County treasurer  
to collect  
tax.

Sec. 2. That the tax provided in the preceding section shall be levied in the same manner and at the same time as are the general taxes of said county of Lewis and Clarke; and it is hereby made the duty of the county treasurer of said county to collect said tax in the same manner and at the same time as other taxes are collected in said county.

Tax known as  
"Fire Tax,"  
same to whom  
paid.

Sec. 3. That this tax shall be known as the "Fire Tax," and shall be paid by the county treasurer to the treasurer of the Helena fire department.

Treasurer of  
fire depart-  
ment to give  
bond.

Sec. 4. That the treasurer of the Helena fire department, before said tax shall be paid to him as hereinbefore provided, shall file in the office of the county clerk of said county a bond, executed to the board of county commissioners of said county, with two or more sufficient sureties to be approved by the board, and in such penal sum as they may direct, conditional that he will faithfully and honestly disburse and pay out said sum of money so paid to him by the county treasurer as aforesaid; and the said treasurer of the Helena fire department is hereby required to make a fair, correct and complete report of the expenditures of all moneys, received by him from the county treasurer, to the county commissioners of said county, at their annual meeting or at such other times as they may direct.

Same officer to  
make report to  
county com-  
missioners.

Sec. 5. This act shall take effect and be in force from and after its passage.

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NOTE FROM THE SECRETARY.—The foregoing act having been presented to the governor of the territory for his approval, was, on the 17th day of January, 1874, returned to the council, in which it originated, without his approval and with his objections thereto; the objections were entered at large upon the journal of the council. The vote by which the bill was passed was then reconsidered, and on the question "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the council.

The act was then immediately sent to the house of representatives, together with the objections of the governor; the vote by which the act was passed by the house was then reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was also passed by a two-thirds vote of the house.

AN ACT in relation to a fire tax in the town of Helena, Lewis and Clarke county.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That for the year one thousand eight hundred and seventy-four, a special tax, known as the "Fire Tax," shall be levied by the board of county commissioners of Lewis and Clarke county, at the next regular session thereof, in accordance with the provisions of an act entitled, "An Act to provide for the support and maintenance of the Helena fire department," which shall be collected in the same manner as provided in said act, and thereafter the said tax shall be levied in the manner provided in said act.

Fire tax levied  
in town of Hel-  
ena for year  
1874.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 13, 1874.

AN ACT to amend an act entitled "An Act authorizing the county commissioners of Missoula county to levy a special tax, for the purpose of building, buying, and repairing bridges."

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That an act entitled "An Act authorizing the county commissioners of Missoula county to levy a special tax, for the purpose of building, buying, and repairing bridges," approved December 30, 1871, be and the same is hereby amended so as to read as follows :

Act amended.

Sec. 1. That the county commissioners of Missoula county be and they are hereby authorized to

levy a special tax, not to exceed five (5) mills on the dollar, for the term of eight (8) years, upon all property in said county liable to taxation, for the purpose of building, buying, and repairing bridges in said county, and for such other purposes as are hereinafter mentioned: *Provided*, that not more than four thousand one hundred dollars of the said tax, collected under the provisions of this act, shall be expended for the purpose of building a bridge across the Hell Gate river, at or near Missoula Mills, in said county.

Commissioners of Missoula county authorized to levy special tax to buy and build bridges, &c.

Sec. 2. That the said commissioners be and they are hereby authorized to purchase any or all toll roads or toll bridges in said county: *Provided*, that said board of commissioners shall deem such purchase conducive to the interest of the people of said county; *And provided, further*, that no contract for the purchase of any grade, road, bridge, or franchise shall be made, nor shall any purchase of them or any of them be made, until after an examination of the title of the person proposing to sell the same, the district attorney of the second judicial district shall report to said board of county commissioners that such title of the proposed seller, in his opinion, is valid.

Commissioners authorized to buy toll roads, bridges, &c.

Opinion of district attorney as to title to be obtained.

Sec. 3. That the moneys so collected shall be known as the "Bridge and Road Purchase Fund," and the said board of commissioners be and they are hereby authorized to draw warrants upon said fund, for the purposes set forth in sections one and two of this act, and that said warrants shall draw interest at the rate of ten per cent per annum: *Provided*, that the said board of commissioners shall not issue warrants to exceed in the aggregate the sum of three thousand dollars in any one year.

Provisions for payment.

Limitations as to issue of warrants for such purposes.

Repealing clause.

Sec. 4. That all acts and parts of acts in conflict with this act are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved January 24th, 1874.

AN ACT to amend an act entitled "An Act to incorporate the city of Virginia, approved December 30, 1864.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. The city council of the said city of Virginia shall have power and authority to levy and collect taxes for city purposes upon all taxable real property within the limits of said city, not exceeding one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in any manner that may be prescribed by ordinance, not repugnant to the constitution of the United States or the organic act of this territory.

City council may levy tax on real property for city purposes.

Sec. 2. Section 1, of article V., of an act entitled "An Act to incorporate the City of Virginia," approved December 30, 1864, is hereby repealed.

Sec. 3. This shall be deemed a public act, and shall take effect and be in force from and after its passage.

Approved February 13th, 1874.

A BILL for an act to incorporate the town of Bozeman.

*Be it enacted by the Legislative Assembly of the Territory of Montana :*

ARTICLE FIRST.—*Of Boundaries.*

Section 1. That the inhabitants of the town of Bozeman, county of Gallatin, and territory of Montana, be and are hereby constituted a body politic and corporate by the name and style of Bozeman; and by that name shall have perpetual succession; may sue and be sued, plead and be impleaded in all courts of law and equity; and may have and use a common seal, and alter the same at pleasure.

Sec. 2. That a line which shall bound and embrace all land and territory within the limits of the original map or plat of the town of Bozeman, filed in the recorder's office of the county of Gallatin, and which shall embrace and bound all tracts of land adjoining said land embraced within said map or plat that have been or may be hereafter laid out into town lots, and duly recorded as additions to the town, shall be known as the town boundaries or town limits, and all territory within such limits shall be town property.

Sec. 3. The inhabitants of said town, by the name and style aforesaid, shall have power to sue and be sued, to plead and be impleaded, to defend and be defended in courts of law and equity, and in all actions whatsoever, to purchase and hold, and receive property, real and personal or mixed, with or beyond said town for burial grounds, and for other purposes for the use of the inhabitants of said town, not contrary to the remaining provisions of this act.

ARTICLE SECOND.—*Of the Town Council.*

Section 1. There shall be a town council to consist of a mayor and a board of aldermen.

Sec. 2. The board of aldermen shall consist of two (2) members from each ward, to be chosen by the qualified voters

of each respective ward. They shall hold their offices for one year, and until others shall be legally chosen and qualified.

Sec. 3. No person shall be an alderman unless at the time of his election he shall be a freeholder of the town, and have resided within the limits of the town six months immediately preceding his election, and shall have the requisite qualifications to vote for members of the legislature of the territory and be a citizen of the United States.

Sec. 4. If any alderman, after his election, remove from the ward for which he was elected, his office shall be declared vacant.

Sec. 5. The mayor and aldermen shall serve without compensation until the city shall have (3,000) three thousand inhabitants, and when the town shall have received such population, the mayor and aldermen shall have such compensation as the town council shall determine.

Sec. 6. The town council shall judge of the qualification and returns of its own members, and shall determine all contested elections under this act.

Sec. 7. A majority of the town council shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members under such penalties as may be prescribed by ordinance.

Sec. 8. The town council shall have power to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

Sec. 9. The town council shall keep a journal of its proceedings, and, from time to time, publish the same; and the yeas and nays, when demanded by any member present, shall be entered upon the journal.

Sec. 10. No alderman shall be appointed to any office under the authority of the city which shall have been created, or the emoluments of which shall have been increased during the time for which he shall have served in the capacity of alderman.

Sec. 11. When a vacancy shall occur in the board of aldermen from any cause, the mayor shall appoint some suitable

person possessing the requisite qualifications to fill such vacancy, said person so appointed to hold his office until his successor is elected and qualified.

Sec. 12. The mayor and aldermen, before entering upon the duties of their respective offices, shall each take and subscribe an oath or make affirmation that they will support the constitution of the United States and the organic act of this territory, and that they will well and truly perform the duties of their office to the best of their skill and ability.

Sec. 13. Whenever there shall be a tie in the election of aldermen, the judges of the election shall certify the fact to the mayor, who shall determine the same by lot in such manner as shall be prescribed by ordinance.

Sec. 14. There shall be twelve stated meetings of the town council in each year, at such times and places as may be subscribed by the town council.

### ARTICLE THIRD.—*Of the Executive Officers.*

Section 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the town, and shall hold his office for one year, and until his successor is elected and qualified.

Sec. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the town for one year next preceding his election, or who shall be under twenty-five years of age, or who shall not, at the time of his election, be a citizen of the United States.

Sec. 3. If any mayor, during the term for which he shall have been elected, remove from the town of Bozeman, or shall be absent from the town for the space of more than three months, his office shall be deemed to be vacant, and the town council shall order an election to fill such vacancy.

Sec. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the town council, who shall proceed to determine the same by lot in such manner as may be prescribed by ordinance.

Sec. 5. Whenever any election for mayor shall be contested, the town council shall determine the same as may be prescribed by ordinance.

Sec. 6. Whenever any vacancy shall happen in the office of mayor, it shall be filled by election.

#### ARTICLE FOUR.—*Of Election.*

Section 1. On the first Monday in April, A. D. 1874, an election shall be held in said town for one mayor, who shall be *ex-officio* public magistrate for the town of Bozeman, and two alderman for each ward, who shall act as street commissioners in their respective wards, without pay. And forever thereafter, on the first Monday in April of each year, there shall be an election of one mayor, and two aldermen for each ward, for said term.

Sec. 2. Immediately after the election and qualification of the mayor of said town, he shall appoint the following officers, to-wit: One town marshal, who shall be day watch and constable; one or more night watches, as occasion may require; one town clerk; one town treasurer; one town attorney, who shall hold the respective offices for the term of one year, and until successors are appointed and qualified. The town attorney, the town clerk, and the town treasurer shall serve without compensation from the city funds, until there shall be three thousand inhabitants in said town, when the town council shall determine the compensation to which they shall be entitled. The marshal shall be entitled to such fees as are allowed by law to sheriffs for similar services, and shall be entitled to no other compensation.

Sec. 3. Every male person who is of the age of twenty-one years, and who is entitled to vote for members of the legislature, and who owns property within the town limits, or personal property within such limits that is habitually kept there, or who carries on any business in said limits that the laws now impose a license upon, shall be entitled to vote at any town election upon any question to be voted upon.



**ARTICLE FIVE.—Powers of the Town Council.**

Section 1. The town council shall have power and authority to levy and collect taxes for town purposes, as herein stated, upon all taxable property, real, mixed, and personal, within the limits of the town, not exceeding \$2,500 per annum, and may enforce the collection of the same in any manner that may be prescribed by ordinance, not repugnant to the Constitution [of the United States], or the organic act of this territory. The taxes, fines, forfeitures, and licenses raised under this act shall be applied, first, toward payment of the town watch, herein provided for; then toward the prevention of fires, as herein provided for; then toward street improvement, as herein provided for.

Sec. 2. The town council shall have authority to appoint all officers, except such as are elected or otherwise provided for in this act, but shall not allow compensation to any except as herein stated.

Sec. 3. The town council shall have power to require of all officers, appointed or elected in pursuance of this act, bond, with penalty and security, for the faithful performance of their respective duties as may be deemed expedient, and also to require of all officers, appointed or elected, as aforesaid, to take such oath or affirmations as the town council may prescribe, for the faithful performance of the duties of their respective offices before entering upon the discharge of the same. To borrow money, on the credit of the town: *Provided*, that no sum of money shall be borrowed at a greater interest than fifteen per cent per annum, nor shall any sum or sums be borrowed, as aforesaid, until the question as to the loan and its amount shall have been submitted to the property holders of said town, for which purpose a special election shall be called by the mayor, after giving twenty days notice thereof, and if a majority of the property holders of said town shall vote in favor of any such loan, the same may be negotiated, and not otherwise: *And provided, further*, that the annual interest on the loan of the town shall never exceed one-half of the rev-

enue annually derived from the tax levied by said town upon the real estate within the limits of said town.

Sec. 4. To appropriate money and funds from the authorized taxes for the payment of the debt and expenses of the town.

Sec. 5. To make regulations to prevent the introduction of contagious diseases into the town, to make quarantine laws for the purpose, and to enforce the same, within five miles of the town.

Sec. 6. To establish hospitals, in case of epidemic, and to make regulations for the government of the same. To make regulations to keep the streets and premises in and about the town clean and in a healthy condition. To make regulations to keep the streets and side-walks clear of all obstructions, and for the improvement of the same.

Sec. 7. To make regulations to secure the general health and improvement of the town, etc. To declare what shall be nuisance, and to prevent and abate the same.

Sec. 8. To provide the town with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets: *Provided*, that nothing in this section shall be so construed as to deprive private individuals of vested or acquired rights, without just compensation being made therefor by the town government.

Sec. 9. To provide suitable offices for the mayor and town council of the town for the transaction of business.

Sec. 10. To divide the town into wards; alter the boundaries thereof, and create additional wards, as the town may require.

Sec. 11. To establish, support and regulate night and day watches, as herein required.

Sec. 12. To provide for the enclosing, improving and regulating all public grounds belonging to the town, and receiving gift of same for town purposes.

Sec. 13. To, and it shall, license, and license, tax, and regulate auctioneers, merchants, peddlers, retailers, taverns, drinking saloons, hawkers, brokers, pawn-brokers, gambling houses, and all branches of business.

Sec. 14. To, and it shall, license, and license, tax, and regulate theatrical and other exhibitions, shows and amusements.

Sec. 15. To, and it shall, restrain and suppress tippling houses, dram shops, gambling houses, dance houses, bawdy houses, and any disorderly house, and the selling of intoxicating or malt liquors, by any person within the town, except by persons duly licensed under the provisions of this act.

Sec. 16. To provide for the prevention and extinguishment of fires; to organize and establish fire companies.

Sec. 17. To regulate the building, and order the repairing and cleaning, of chimneys and flues.

Sec. 18. To regulate the storage of gun powder, tar, pitch and resin, and other combustible material.

Sec. 19. To regulate parapet walls and partitions, fences, and restrain cattle, hogs, horses, dogs, etc., from running at large.

Sec. 20. To provide for taking the enumeration of the inhabitants of said town.

Sec. 21. To regulate the election of town officers, and to provide for removing from office any person holding an office created by ordinance.

Sec. 22. To regulate the fees of jurors and witnesses for services rendered under this act, or any ordinance rendered in pursuance thereof.

Sec. 23. To regulate the watch of the town, to enforce fines, forfeitures and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures, and the enforcement of such penalties; and all money collected under or by authority of any town ordinance, shall be deemed to be taken to belong to said town, and disposed of by the town council under the ordinances of said town, for the general use and benefit of the inhabitants thereof; and all fines and penalties shall be used in the payment of constable and marshal's fees, town improvements, or in liquidation of any town debt.

Sec. 24. The town council shall have power to make all ordinances which shall be necessary and proper for the carry-

ing into execution the powers specified in this act, so that ordinances be not repugnant to, nor inconsistent with, the constitution of the United States, nor the organic act of this territory.

Sec. 25. The style of the ordinances shall be, "Be it ordained by the town council of the town of Bozeman."

Sec. 26. All ordinances of the town council shall, within ten days after they have been passed, be published in some newspaper in the town, or posted up in three public places in said town, and shall not be in force until they have been published as aforesaid.

Sec. 27. All ordinances of the town council may be proven by the seal of the corporation, and when printed in book form, or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

#### ARTICLE SIX.—*The Mayor.*

Section 1. The mayor shall preside at all meetings of the town council, and in case of a tie shall have the casting vote, and in no other. In case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their members as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

Sec. 2. The mayor or any two aldermen may call a special meeting of the town council.

Sec. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances for the government of the town. He shall inspect the conduct of all the subordinate officers of said town, and cause negligence or passive violation of duty to be prosecuted and punished. He shall from time to time communicate to the aldermen such information, and recommend all such measures, as in his opinion may tend to the improvement of the finances, the health, security, comfort and ornament of the town.

Sec. 4. He is hereby authorized to call on every male inhabitant of said town, over the age of eighteen years, to aid in enforcing the laws and ordinances, and in case of riots and fires to call them out as militia and fire companies, to aid him in suppressing the same, or disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the town, and carrying into effect any law or ordinance, and any person who shall not obey such call shall forfeit to said town a fine not exceeding twenty-five dollars.

Sec. 5. He shall have power, whenever he shall deem it necessary, to require of any officer of said town an exhibit of his books and papers.

Sec. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

Sec. 7. He shall also have such power as may be vested in him by ordinance of the town council, in and over all places within five miles of the boundaries of the town, for the purpose of enforcing the health and quarantine ordinances and regulations thereof.

Sec. 8. In case the mayor or any alderman shall at any time be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, malconduct or partiality in the discharge of the duties of his office, he shall be liable to be fined in the probate court of the county, and on conviction he shall be fined not more than five hundred dollars, and the court shall have the power, on the recommendation of the jury, to add to the judgment of the court, that he be removed from office.

#### ARTICLE SEVEN.—*Of Proceedings in Special Cases.*

Section 1. When all the owners of all the property on a street, lane, avenue or alley, shall petition for such street, lane, avenue or alley to be opened, the town council may open, widen or alter such street, lane, avenue or alley, upon condition to be prescribed by ordinance; but no compensation shall, in such cases, be made to those whose property shall be taken, their tenants or others; nor shall there be any assessment of

benefit or damage that accrue thereby to any of the petitioners, the cost of such opening, etc., to be assessed on said owners only.

Sec. 2. The town council shall have power by ordinance to levy and collect a special tax on the holders of lots on any street, lane, avenue or alley, according to their respective fronts, for the purpose of paving, grading or planking sidewalks on such street, lane, avenue or alley; *Provided*, said tax shall not exceed the actual cost of said side-walk, etc., respectively, which tax shall be collected in the same manner as other city taxes; *and provided, further*, that nothing in this act shall be construed so as to prevent the owners of such property from making the desired improvement of their own volition.

#### ARTICLE EIGHT.—*Miscellaneous Provisions.*

Section 1. The town council shall have power, for the purpose of keeping the streets, lanes, avenues and alleys in repair, to require every able-bodied male inhabitant in said town over the age of twenty-one years and under forty-five to labor on the streets, lanes, avenues and alleys, not exceeding two days in each and every year. And every person failing to perform or supply such labor when duly notified by the street commissioner shall forfeit and pay three dollars for each of said days so neglected or refused.

Sec. 2. The members of the town council shall, during their term of service as such, be exempt from serving on juries and in the militia of the territory.

Sec. 3. The town council shall have power to provide for the punishment of offenders by imprisonment in all cases when such offenders shall fail or refuse to pay the fines and forfeitures which may be recovered against them.

Sec. 4. All fines and forfeitures collected for offences committed, or penalties incurred, within the incorporated limits of the town of Bozeman, shall be paid into the treasury of said town by the officer collecting the same.

Sec. 5. The town council shall cause to be published annually a full and complete statement of all moneys received and

expended by the corporation the preceding year, and on what account received and expended.

Sec. 6. All suits, actions and prosecutions instituted, commenced or brought by the corporation created, shall be prosecuted in the name of the town of Bozeman.

Sec. 7. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the probate court; and every such appeal shall be taken in the same manner and with effect as appeals are taken from and granted by justices of the peace under the laws of this territory.

Sec. 8. Whenever the mayor shall absent himself from the town except as herein allowed, or resign, or die, or his office shall otherwise be vacated, the board of aldermen shall immediately proceed to elect one of (their) number president, who shall be mayor *pro tem*, until the office shall be filled by election as herein provided.

Sec. 9. This act is hereby declared to be a public act, and may be read in evidence in all courts of law and equity within this territory, without proof.

Sec. 10. The town marshal and constable within said town of Bozeman shall be authorized and have power to execute, anywhere within the county wherein said town may be located, all process by the police magistrate of said town or other magistrates within the said town, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

Sec. 11. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law or public regulation made in pursuance thereof, shall be brought in the corporate name, and it shall be lawful to declare generally a debt for such penalty, fine or forfeiture, stating the clause of this act, or the by-law or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Sec. 12. In all prosecutions for any violation of any ordinance, by-law, or other regulation, the first process shall be by

summons, unless complaint under oath shall be made for a warrant as in other cases.

Sec. 13. Executions may issue immediately upon the rendition of judgment for any fine and costs imposed by virtue of any ordinance or other regulation, and if the defendant have no goods or chattels or real estate within the county whereof the judgment can be collected, the officer rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months, and all persons so committed shall be confined one day for each three dollars of such fine and costs; *and provided, further*, that all persons so confined may be compelled to work upon the streets of said town.

Sec. 14. The police magistrate shall have jurisdiction in all cases of violation of the town ordinances, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the peace in this territory; and in all courts of this territory said police magistrate shall be held to be a justice of the peace; but no change of venue shall be allowed from said police magistrate to any other justice of the peace for hearing determination in any case where proceeding shall be commenced against any person or persons for the violation of any city ordinances.

Sec. 15. The duties of all officers mentioned in this act not herein prescribed shall be prescribed by ordinance.

Sec. 16. That J. S. Mendenhall, L. S. Willson, Frank Harper, C. L. Clark, John C. Guy, Arch. Graham, William H. Tracy, D. A. Rouse, Nelson Story, Louis Sperling, and H. N. Maguire be and they are hereby constituted and appointed to act as commissioners for the purpose hereinafter mentioned, to serve in such capacity until the board of aldermen of said town shall be elected and duly qualified. Said commissioners, or any three of them, shall, on or before the first Monday in April, A. D. 1874, proceed to lay out the territory embraced within the limits of the said town of Bozeman into three wards, and fix the boundaries of the same, and shall provide also for holding the first election herein appointed in the several wards of said town, shall fix the place for holding said



election in each of said wards, shall appoint three persons to act as judges of election in each of said wards, who shall be duly sworn, and whose places may be filled in case they do not serve as provided by law in other elections. Said elections shall be held and returns thereof be made and certified in all respects as may be provided by law in elections for members of the legislature. A copy of said election returns shall be delivered to said commissioners, who shall canvass the same within three days from the time received, and the persons receiving the highest number of votes for the several officers to be elected under this act, shall be declared by said commissioners, or any three of them, duly elected to said offices. If two or more persons shall at said election receive the same number of votes for either of said offices, the said commissioners shall determine the same between them by lot.

Sec 17. Before this act shall become a law it shall be submitted to a vote of the citizens of the town for their approval or disapproval. The commissioners, or any three of them named in section sixteen of article eight of this act, shall give twenty days notice by posting notices in five conspicuous places in said town that an election will be held on a day and at a place named in such notice. They shall appoint three persons to act as judges of election and two clerks, who shall qualify as other judges and clerks of election are required to qualify. They shall prepare a ballot-box and poll-books for receiving and entering such votes. The votes or ballots cast at such election shall have written on them "Town Charter, No," or "Town Charter, Yes." The judges of election shall make an abstract of the votes cast and shall certify the same under oath to the county clerk, and shall, with the assistance of at least one of the county commissioners, open and count said votes, and if a majority of said votes be "Town Charter, Yes," this act shall be in force and operation, and if a majority of the votes be "Town Charter, No," then this act shall be of no validity.

Sec. 18. The polls at the election provided for in the preceding section shall be kept open from ten o'clock A. M. to three o'clock P. M., and no person shall be allowed to vote at

such election except such persons as are, under section three of article four of this act, qualified to vote at other town elections herein provided for.

Sec. 19. That if this act shall be approved by the qualified voters of the town, the same may be forfeited at any time, at any general town election that a majority of the qualified voters of the town may vote so to do.

Approved February 18th, 1874.

## JOINT MEMORIALS.

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House Joint Memorial in relation to the Yellowstone national park.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled :*

Your memorialists, the Legislative Council and House of Representatives, composing the Legislative Assembly of the Territory of Montana, would respectfully represent that the portions of the public domain which, by the act of congress, approved March 1st, 1872, entitled, "An Act to set apart a certain tract of land lying near the head waters of the Yellowstone river as a public park," is one of the greatest interest to the adventurer, the seeker for the wonderful and curious, and for scientific observers. No like geographical area presents so much to absorb attention, excite curiosity, invite study, and gratify a love of the romantic in nature. Its invigorating breezes and pure waters promote health, and it is destined in a near future to become the resort of travelers from all portions of the civilized world. During the past summer and autumn it was visited by at least five hundred of our people. Its confines are within seventy-five miles of the settlements of Montana, while highways have been constructed by our people along the Yellowstone and Madison rivers, to the northern portions thereof, each leaving an extension of about eighty miles necessary to enable tourists to visit with ease and pleasure all that is there curious or wonderful.

Your memorialists would further represent that with a single exception the entire park is without a permanent occupant interested in preserving intact the facilities of ingress and egress and the curiosities which do there so greatly abound.

Your memorialists do further represent that said park is guarded by immense mountain ranges upon its southern confines, which render it particularly inaccessible from that direction.

Your memorialists do further represent that only a small portion thereof is within the limits of the Territory of Montana, as they are defined by the act to provide a temporary government therefor, approved May 26th, 1864, and that for that reason your memorialists can legislate to preserve only a small portion of what is there curious, wonderful and rare.

Your memorialists would further represent that the tourist through that region for a distance of nearly two hundred miles is prevented by the present incomplete provisions of the laws of the United States, from procuring such accommodations as the situation requires, and that authority to construct roads, hotels, baths, trails, observatories, boats, and other necessary and convenient facilities for travelers, should be granted at an early day.

Your memorialists are of the further opinion that the members of the legislative assembly of this territory, by reason of their proximity to and consequent familiarity with this pleasuring ground and their interest in having all that is there found protected from mutilation may be securely trusted to legislate for its preservation.

Your memorialists would therefore most earnestly pray your honorable body, *First*, That an appropriation of one hundred thousand dollars be made by congress, to be expended as you shall direct in the construction of necessary roads and trails therein.

*Second*, That so much thereof as now lies within the Territory of Wyoming be detached therefrom and be attached to the Territory of Montana.

*Third*, That such legislation be had by your honorable bodies as will permit at an early day the construction of hotels at the upper and lower geyser basins upon the Madison river, and at the Yellowstone lake, the lower falls of the Yellowstone, and at the White Mountain hot springs on Gardiner's river, and their occupancy by persons who will preserve the curiosities there from mutilation.

And your memorialists, as in duty bound, will ever pray.

Approved January 20th, 1874.

## House Joint Memorial in relation to irrigation.

*To the Honorable the Senate and House of Representatives of the Congress of the United States of America :*

Your memorialists, the Legislative Assembly of the Territory of Montana, would most respectfully represent that the portion of the public domain lying between the ninety-ninth meridian of longitude west from Greenwich and the Pacific Ocean is generally incapable of cultivation, except by means of irrigation.

That this arid region embraces more than one-third of the geographical area of the United States, or over one million square miles, and comprises the territories of New Mexico, Arizona, Colorado, Wyoming, Utah, Idaho, and Montana, and the state of Nevada, and large portions of the states of Oregon, California, Nebraska, Kansas, and Texas, and of the territories of Washington and Dakota. That the soils of this vast region are remarkable for their productiveness when subjected to irrigable agriculture.

That the water supply of its rivers and smaller streams is abundant to reclaim millions of acres that now lie waste and unproductive.

That a system of irrigation that will meet the wants of the country will be too extensive and costly for either individuals, private corporations, territorial or state governments to successfully construct.

That the present agriculture of this region is confined to the immediate valleys of the water courses, where irrigating canals are of easy construction and comparatively inexpensive, and it will remain so confined to these narrow limits, unless some extensive system of irrigation can be established.

That for these reasons vast areas of land will remain unsold by the government for years to come, or perhaps forever, unless they can be made available to the agriculturist by irrigation.

That the public domain, outside of this region, subject to the homestead and pre-emption laws, is comparatively exhausted, and the tides of immigration westward, annually

increasing in volume, are unable to make available under these beneficent laws the millions of acres of rich lands embraced in this region, by reason of the aridity of the climate and their financial inability to construct adequate irrigating canals.

That no interest is more important to the nation than the development of its mineral resources. Thousands of gold and silver mines are now unworked, for lack of water to drive the machinery to crush the ore. This can be secured only by governmental aid. Reservoirs constructed near the sources of mountain streams will furnish the necessary supply, and the water, after driving the stamp mills at the mines, will flow onward to enrich and fertilize the arid plains we are now seeking to reclaim for cultivation.

That the general government has established ample and numerous precedents for the granting of the relief we now ask, by the donation of lands to various states, to aid in the construction of canals for navigation, and for the building of railways, and by the outright gift of all swamp and overflowed lands to all the western states.

That the aid we ask is an absolute necessity to the states and territories named, and will contribute far more to the general prosperity of the whole nation than any or all of the above classes of donations.

That the control of the water supply and its distribution for irrigation should forever remain in the hands of the people, through their representatives—the legislative assemblies of the several states and territories—and should in no case or degree be surrendered to individuals or corporations.

Therefore, your memorialists would most respectfully pray that a law be enacted by your honorable body, embracing the following general provisions:

First. To grant to the several states and territories named in the preamble to this resolution one-half of all the arid lands, not mineral, within their borders; said lands, or the proceeds thereof, to be devoted to the construction of irrigating canals and reservoirs, for the reclamation of said arid and waste lands.

Second. That the construction and maintenance of irrigating canals and reservoirs shall be under the exclusive control and direction of the territory or state, as sole owner thereof, under such laws, rules, and regulations as the legislature thereof shall from time to time provide.

Third. That the territorial and state legislatures shall have power to make all needful rules and regulations, and take all needful steps for the proper construction and maintenance of such canals, and that such power shall include the power to provide by-laws for the issuing of the bonds of the territory or state for the construction of such canals.

Fourth. That the proceeds of said lands, herein granted, shall be kept as an exclusive fund by the territory or state, first, for the payment of the principal and interest of all bonds so issued as aforesaid; second, that any balance remaining after the payment of the bonds issued as aforesaid shall be used in the maintenance of said canals, or the construction of other canals, as the legislature of said territory or state shall from time to time by law direct.

Fifth. That any lands within said territory or state, which shall be filed on, under the provisions of the pre-emption and homestead laws of the United States, after the passage of this act, shall be subject to the operation of this act, if the said lands shall be brought under irrigation by the construction of said canals.

Sixth. That the lands so donated to the several states and territories, herein named, and the remainder of the public domain therein, belonging to the general government, shall be disposed of under revised and more strict pre-emption and homestead laws than are now in force, and that no title shall issue until the claimant shall be a *bona fide* actual settler upon the land claimed.

Approved January 21, 1874.

## House Joint Memorial in relation to the Public Domain.

*To the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the Legislative Council and House of Representatives of the Territory of Montana, represent that no policy of the government has contributed so much to the growth and prosperity of the United States as that policy which has opened the immense public domain to actual settlers, and permitted them, without charge, or for a nominal consideration, to become the owners of such small portions thereof as are convenient and sufficient to make farms and homes.

It has drawn from the crowded Atlantic states an immense population, furnished them a competence, given them a permanent interest in the country, organized new communities, territories and states, become a source of national strength and wealth, and has lured to our country a tide of emigration which, in its increasing strength and volume, we can not too highly esteem.

The legislation by congress on this subject has been liberal, and its influence of unquestioned beneficence. That it was the purpose of your honorable bodies that all the new communities, in an equal degree, should share the privileges and reap the harvest of good which this policy promises, your memorialists are not permitted to doubt; but in the execution of the purpose, thus grand, your memorialists are of the opinion that the design of congress has not been fully carried out so far as it affects the Territory of Montana.

By a treaty made in 1868 with the Crow Indians, substantially all the arable land, and much of the grazing land, within this territory south of the Yellowstone river, was reserved to and set apart for the Crow Indians.

By a recent executive order all the lands north of the Missouri river within this territory have been withdrawn from occupancy and sale, and it is in contemplation, we are informed, to set it apart for the Gros Ventres, Blackfeet, Assiniboines, and other tribes inhabiting that region. Between



these two rivers a preliminary route for the Northern Pacific Railroad has been surveyed, and nearly one-half of the land, valuable for grains, grasses, or vegetables, has been wholly withdrawn from the market, while the other half has been doubled in price, and the homestead rights have been reduced to eighty acres; this has been done before there has been any permanent location of the line of the road, and as a result, the people of this territory, in this form, are made to feel seriously the burden of the railroad legislation long before they feel any of its beneficent effects. That any legislation compels or *justifies* this withdrawal of lands so long in advance of its construction, or at least its permanent location, your memorialists are not prepared to affirm.

Your memorialists are of the opinion that the area of the public domain within this territory thus affected by Indian treaties or by railroad legislation is nearly one hundred thousand square miles. Its influence upon the material prosperity of our territory is of incalculable mischief. The contemplated change of the Crow reservation to the basin of the Judith river, is a partial relief, but it is, avowedly, to secure some of the best land along the Yellowstone river from the Indians, and subject it to the legislation pertaining to the railroad and its land-grant, that this change is made.

Your memorialists are of the opinion that the reservations which by treaty have been secured to Indian tribes heretofore, have been unnecessarily large.

Your memorialists are of the further opinion that while the construction of the three trans-continental railroads is of such national importance and concern as to justify the aid which the government proffered, the public welfare would be greatly promoted if, in exchange for the public land offered to the Northern Pacific railroad, aid was granted to said road in some other form. Such an exchange would possibly facilitate the completion of that great enterprise, could be compelled upon any application by that corporation for an extension of its charter, and would greatly relieve our people from the evils which they now suffer.

Your memorialists regard that conclusion which adjudges the gift of immense and valuable grants of the public domain

to the great national enterprise, as preferable to encouragement by way of direct gifts of money or national credit, as the result of a short-sighted view.

A half century hence the government will have received directly more than any aid it need to render, while indirectly it will have received compensation one hundred fold; but a half century hence the immense grants of lands will probably become elements of discord and sources of disturbance to the various states then containing them, nor is it impossible that they will then affect deleteriously the nation at large.

Your memorialists would further represent that, by direction of the commissioner of the general land office, all public lands in this territory, surveyed and open to occupancy, settlement and sale, are declared to be *prima facie* mineral lands, and before they can be secured to the pre-emptor it is made his duty to cause public notice to be given, that on some day named a hearing will be had, as to the mineral or non-mineral character of such lands, and to attend with witnesses to establish that his location is non-mineral.

Your memorialists are not advised, nor do they believe, that any of the public domain within this territory, more valuable for its deposits than for agriculture, has ever been, or sought to be, entered as agricultural lands. The price charged for agricultural lands, within the limit of the railroad land grant, where the public lands are in greatest demand, is the same as that charged for placer mining ground. Your memorialists represent that the necessity thus imposed upon those desiring to secure agricultural lands requiring the publication of notices and the transportation of witnesses, often long distances, to establish a proposition patent to the most common observation, and only necessary by reason of the order aforesaid, is a grievous burden to the people of this territory, and has already operated to increase the expense of securing homesteads and pre-emptions within this territory and land district many thousand dollars, and that no right of the general government would be imperiled if such order and direction were cancelled.

Your memorialists would not wish to make any unseemly complaint of the method by which the beneficent design of

the general government is sought to be carried out, but an aggregation of obstacles to our settlers has seriously impaired the usefulness of the policy of the government, and interfered with the occupancy, settlement and sale of agricultural lands, within this land district.

In the belief that every interest of the general government conspires with those of our own territory, in requiring that every facility should be afforded to the actual settler to acquire, without unnecessary expense, the rights granted him by law, we present this, our memorial.

Your memorialists therefore pray :

First. That in all pending and future negotiations of treaties with the Indian tribes, the area of their reservations be narrowed to the smallest convenient limit, and that existing treaties be supplemented by articles which will reduce the size of existing reservations.

Second. That such legislation be had by your honorable bodies as will result in the relinquishment by the Northern Pacific Railroad, for an adequate consideration, of its immense and valuable land grant within this territory, and that, meanwhile,

Third. Such legislation be had as will result in leaving open for settlement and occupancy the public lands in Montana, upon the same terms and with like facilities as such lands are subject to elsewhere, until the relinquishment of the claim of said corporation thereto, as herein prayed, or until the permanent location and construction of said road.

Fourth. That congress cause such legislation to be had as will result in rescinding the order which it is made necessary to establish the non-mineral (character) of all agricultural lands in this land district before procuring title thereto, and that the determination of the surveyor general, until a contest, be taken as a guide in the land office in determining as to the character of the lands in regard to the mineral or non mineral character thereof.

And your memorialists, as in duty bound, will ever pray.

Approved February 18, 1874,

Council Joint Memorial in relation to lands in the Bitter Root Valley.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the Legislative Council and House of Representatives composing the legislative assembly of the Territory of Montana, would respectfully represent : That in pursuance of an act of congress entitled " An Act. to provide for the removal of the Flathead and other Indians from the Bitter Root Valley, in the Territory of Montana," approved June 5th, 1872, the surveyor general of Montana has caused to be surveyed about ten thousand four hundred acres of land in the said Bitter Root Valley, for the benefit of the said Indians, not one of whom has abandoned his tribal relations with his tribe, but all have, since the first day of August, 1872, been treating with the government and receiving their annuities therefrom.

Your memorialists would further represent that the delays which have occurred in adjusting the rights of the Indians to said lands have nearly exhausted the time which was given settlers for proof and payment for their claims, and that such delay has occurred through no fault of the said settlers, and they should not be made the sufferers.

Your memorialists would further represent, that these settlers are far removed from market, and that in consequence of the late panic and stringency in monetary affairs, it is difficult for them to obtain the necessary money to pay for their lands within the period specified in said act.

Your memorialists would therefore respectfully ask your honorable body to enact a law extending the time to make proof and payment for said claims for the term of two years, and for such further legislation as will relieve the people of the Bitter Root Valley from the present embarrassing condition.

And your memorialists will ever humbly pray, etc.

Approved January 20th, 1874.

Council Joint Memorial in relation to the protection of the Yellowstone Valley, and of communication with the town of Bismarck, in Dakota.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the Legislative Council and House of Representatives, composing the legislative assembly of the territory of Montana, would respectfully represent: That the settlements of the said territory are isolated from the other inhabited and civilized portions of the national domain, with which they can only communicate for purposes of travel and transportation (except for a short season each year) by means of the stage coach and freight wagon.

Ever since the closing of the Bozeman and Bridger roads, reaching from the head waters of the North Platte to those of the Missouri, and the abandonment of Forts Reno and C. F. Smith, our route of communication with the states east of us has been for the most part by way of the settlement of the territory of Utah, the circuitry of which adds greatly to the expense, tediousness and delay of our intercourse with the east.

Your memorialists anticipate, within a very few years, the completion of the Northern Pacific Railroad through the Yellowstone Valley to the now eastern limit of our settlements, and the military expedition under Lieutenant-Colonel E. D. Baker, along the line of the Northern Pacific Railroad from Fort Ellis eastward, and the more recent expedition of General Stanley, from Bismarck westward, have defined a line of communication with the now completed portion of said railroad, shorter by many hundred miles than the said route by way of Utah, heretofore pursued, affording a direct outlet to market for our herds of cattle and other products, for want of which our said products have hitherto been of little value. Traversing a country of abundant pasturage, of surpassing fertility, well watered and supplied with timber, and in all respects more inviting to the herdsman, the agriculturist, and miner, than any portion of Montana now settled.

The allurements of the mineral wealth of the mountains fringing that great valley, and the agricultural facilities afore-

said, impel our pioneers and adventurers in that region, notwithstanding the implacable hostility of the savage hordes by which it is infested.

The exigencies of trade will in the ensuing summer cause numerous and doubtless successful attempts to navigate the Yellowstone river, determining the feasibility of transportation by means of steamboats upon the stream.

That great national enterprise, the construction of the Northern Pacific railroad, must of necessity push its way westward with all possible rapidity, both by reason of the terms of its charter and the wants of the nation.

The necessity of a large body of troops to enable the engineers of the said railroad to locate their lines in this region demonstrates to your memorialists that to ensure the safety of our citizens and to guard and protect the objects and interests above alluded to, the immediate presence of a large and well-appointed armed force along the said line of communication between Fort Ellis, in Montana, and the town of Bismarck, in Dakota, is necessary.

Wherefore your memorialists pray that such action may be taken as in your wisdom you may deem expedient, to the protection of the objects and interests aforesaid.

And your petitioners will ever pray, etc.

Approved February 7th, 1874.

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House Joint Memorial in relation to opening lands in Bitter Root Valley to settlement.

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the Council and House of Representatives, comprising the legislative assembly of the territory of Montana, most respectfully represent: That the lands in Bitter Root Valley, lying above the Lo-Lo fork of the Bitter Root river, which have been recently thrown open to settlement by an act of congress, approved June 5th,

1872, were and still are withheld from settlement under the pre-emption and homestead laws of the United States. That the said lands are rich and fertile agricultural lands. That there (are) now families in the territory, and many coming into the territory from time to time, who desire to settle upon said lands, but who are debarred from so settling thereon from the fact that they cannot homestead or pre-empt, and are unable to pay for said lands within the short time that the law now requires payment to be made. That the families and parties to whom it was designed by the homestead and pre-emption laws to give homes and homesteads of their own, are thus denied the privilege of settling upon these fine lands, and the policy of the government to reserve its public domain from the hands of the speculators, for homes for the poor and needy, is, as to these lands, defeated.

Your memorialists most respectfully call the attention of your honorable bodies to these facts, and humbly ask that you open the said lands to settlement, under the pre-emption and homestead laws of the United States.

And your memorialists will ever pray.

Approved February 12, 1874.

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Council Joint Memorial in relation to the protection of citizens of Deer Lodge and Missoula counties

*To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:*

Your memorialists, the Legislative Council and House of Representatives, composing the legislative assembly of the territory of Montana, would respectfully represent that the citizens of said territory residing in counties of Deer Lodge and Missoula live in jeopardy from the bands of roving Indians infesting and traversing that country.

Your memorialists would further represent, that the Flat-head Indians (of the Bitter Root Valley) have for a long time claimed that region, and while the same has, to a great ex-

tent, been occupied by white settlers engaged in the various pursuits of agriculture and the mechanical trades, the said Indians persist in their determination to inhabit and control the said country, notwithstanding the said country has been surveyed by surveyers of the United States, and, to a great extent, duly pre-empted by white settlers. The said Indians declare that they will not leave the land unless forcibly removed.

Your memorialists would further represent, that by reason of the topography of the country, numerous tribes of Indians in their travels to and from their buffalo grounds, must necessarily pass through the canon of Hell Gate (river) Valley in said counties, among which may be enumerated the Nez Perces, Cayuses, Coeur D'Alenes, Kliklitsats, Yokimas, Walla Wallas, Spokanes Colville, Peud D'Oreilles, Kootenays, Kettle Indians, and also stragglers from the Modoc tribe, many of whom are regardless of the rights of white settlers, frequently plundering their property, driving off their horses, killing and stealing their cattle, — wherefore frequent collisions of the said tribes with the settlers are the consequence, and the country is in danger of an Indian war at any time.

Your memorialists would further represent, that the clandestine sale of spirituous liquors to the said Indians by lawless white persons and half-breeds, arousing all their bad passions, is an additional source of alarm to the settlers who are defenceless, except as their own unorganized means and strength can furnish.

Wherefore, your memorialists would pray that a military post consisting of at least five hundred cavalry soldiers be established at or near the Hell Gate Randi, at the confluence of the Bitter Root and Hell Gate rivers, and to take such other measures as may insure the safety of the citizens of the counties aforesaid.

And your petitioners will ever pray.

Approved February 5th, 1874.



House Joint Memorial in relation to the improvement of the Yellowstone river, for the purpose of navigation.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled :*

Your memorialists, the Council and House of Representatives composing the legislative assembly of the territory of Montana, most respectfully represent :

That the want of railroad and river transportation subjects the people of the territory of Montana to many grievous burdens and disadvantages. That Corinne, the nearest point from which goods and freight can be shipped into the territory of Montana by rail, is about five hundred miles from its principal towns, That there remains but one other way by which freight can be brought into the territory, which is by shipping up the Missouri river, and that the season for shipping by this route is short, besides the great distance to be traveled and time required, render this mode of transportation expensive and inconvenient.

Your memorialists would most respectfully represent, that it has been recently ascertained that the Yellowstone river can be easily cleared out and rendered navigable. That by this river goods now shipped by the Missouri river can be shipped directly into the territory of Montana in much less time and by a route that is three hundred miles shorter than by the Missouri. That the main channel of the Yellowstone is unchangeable and far better for navigation, and owing to the slow fall of the water, this river can be navigated much longer during the season than the Missouri.

Reminding your honorable bodies of these facts and of the additional fact that during the winter transportation by wagon from Corinne, owing to the snow, is uncertain, unsafe, and oppressive, your memorialists would respectfully, but most earnestly, urge upon you the propriety of making an appropriation to clear out the channel of the Yellowstone, and render the same navigable.

In detailing to you the burdensome disadvantages of our people, and telling you that this will give them comparatively quick and cheap transportation, we point you to the great

good such a step on your part will accomplish, and humbly ask for the appropriation of one hundred thousand dollars to be used for such purpose, in such manner as your honorable bodies shall think wise and prudent.

And your memorialists will ever pray.

Approved February 13th, 1874.

## JOINT RESOLUTIONS.

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### Council Joint Resolution.

*Resolved, by the Council and House of Representatives of the Territory of Montana :*

That all bills introduced in either branch of the legislative assembly, amending or affecting the civil practice act or criminal practice act of the codified statutes of Montana territory, be referred to a joint judiciary committee, consisting of the judiciary committees of both houses.

Approved January 21st, 1874.

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Council Joint Resolution in relation to the correction and distribution of the laws.

*Resolved, by the Council, the House concurring :*

That after said laws are printed, the secretary of the territory shall furnish, and he is hereby authorized so to do, each member of the Council and House of Representatives of the Legislative Assembly, and the chief clerk of each house, and each county, district, and territorial officer with two copies of the laws passed at the eighth session of the legislative assembly, and two copies each of the journals of each house ; also, each employe of the legislative assembly, one copy of the laws and journals of each house: *Provided*, That nothing herein contained shall be so construed as to make the Territory of Montana responsible for the printing of said laws and journals.

Approved February 13th, 1874.

House Concurrent Resolution in relation to the Centennial Exhibition.

*Resolved, by the House of Representatives, the Council concurring :*

That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the territorial treasury, not otherwise appropriated, to defray the expense of packing and transporting such articles as in the judgment of the persons hereafter named are appropriate and worthy to be exhibited at the International Exhibition, to be held in the city of Philadelphia, in 1876, and to defray the expenses of arranging such department as may be assigned to the territory of Montana, at said exhibition by the managers thereof, and that the territorial auditor be and he is hereby authorized to draw his warrants on the territorial treasurer in favor of William H. Claggett, Patrick A. Largey, and Emma Bowen, or any one of them upon the order of two of them, at such time or times as they may request, and in such sum or sums as they may desire, so that in the aggregate the foregoing sum is not exceeded and the parties aforesaid occupying relations of trust in various capacities to said exposition and the connection of this territory therewith, this resolution shall be interpreted and held to ensure to the successors of the parties aforesaid, in said trust, or any of them for the uses and purposes aforesaid.

Approved February 13th, 1874.

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House Concurrent Resolution in relation to the Historical Society of Montana.

*Be it Resolved by the House of Representatives, the Council concurring :*

That the sum of five hundred dollars be and the same is hereby appropriated to the Historical Society of Montana, out of any moneys in the territorial treasury not otherwise appropriated, and the territorial auditor is hereby authorized to draw his warrant on the treasurer therefor, and he may take such security for the faithful application thereof to the purpose for which said society was incorporated as in his judgment is proper to be given by said society.

Approved February 10th, 1874.

Council Concurrent Resolution to pay for *Daily Herald*.

*Resolved by the Council, the House of Representatives concurring:*

That there be and is hereby appropriated out of the territorial treasury, from any moneys not otherwise appropriated, to Fisk Brothers, the sum of forty-one dollars and twenty-eight cents, for eight copies of *Daily Herald* furnished the council, and two copies of the same paper furnished the house of representatives, during the eighth session of the legislative assembly of Montana territory, and the territorial auditor is hereby directed to draw his warrant on the territorial treasurer for said amount.

Approved February 13th, 1874.

---

Council Concurrent Resolution to pay J. M. Knight for services rendered.

*Resolved by the Council, the House of Representatives concurring:*

That there be and is hereby appropriated out of the territorial treasury, from any moneys not otherwise appropriated, to J. M. Knight, for services in examining the auditor's and treasurer's books, under the instruction of the eighth legislative assembly of Montana, the sum of seventy-two dollars, and the territorial auditor is hereby directed to draw his warrant on the treasurer for said amount.

Approved February 13th, 1874.

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Council Joint Resolution in relation to the publication of the report of directors and warden of the Montana penitentiary.

*Resolved, by the Council and House of Representatives of the Territory of Montana:*

That there be and is hereby appropriated out of the territorial treasury, from any money not otherwise appropriated, the sum of two hundred and eighteen dollars to James H. Mills, for publishing in pamphlet form eight hundred copies of the "Act to regulate and govern the annual report of the

directors and warden of the Montana penitentiary," and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer for said amount.

Approved February 11, 1874.

---

Council Joint Resolution to pay for repairing the arsenal.

*Resolved, by the Council and House of Representatives of Montana Territory :*

That the auditor is hereby directed to draw a warrant on the territorial treasurer for the sum of four hundred and twenty-eight dollars and fifty-seven cents, in favor of William Thompson, said sum being for amount of certificate of auditor, drawn December 9th, 1872, for four hundred and twenty-eight dollars and fifty-seven cents, for weather-boarding and roofing the territorial arsenal: *And be it further resolved,* That the auditor is hereby directed to draw a warrant on the territorial treasurer for the sum of twenty-one dollars and forty-three cents, in favor of E. H. Bartlett & Co., said sum being for amount of certificate of auditor, drawn November 12th, 1872, for twenty-one dollars and forty-three cents, being for repairing the doors of the territorial arsenal.

Approved February 8, 1874.

---

House Joint Resolution in relation to printing.

*Resolved, by the House, the Council concurring :*

That there be and is hereby appropriated, out of any money in the territorial treasury not otherwise appropriated, to Geo. F. Cope, the sum of two hundred and fifty dollars, for printing two hundred and twenty-five copies of a pamphlet, entitled "Marks and Brands in the Territory of Montana," and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer therefor.

Approved February 12, 1874.

Council Concurrent Resolution in relation to printing.

*Resolved, by the Legislative Council of the Territory of Montana, the House concurring :*

That the sum of nine hundred and four dollars be and is hereby appropriated out of the territorial treasury to Thomas Deyarmon for newspapers furnished, and for printing for Council and House. The territorial auditor is hereby authorized to draw his warrant on the treasurer for said amount.

Approved February 12th, 1874.

---

House Joint Resolution to compensate L. M. Todd for transporting ammunition from Helena to the arsenal at Virginia City.

*Resolved, by the Council and House of Representatives of the Territory of Montana :*

That the auditor is hereby authorized and directed to issue a warrant on the territorial treasurer, in favor of L. M. Todd, for the sum of one hundred and thirty-five dollars (\$135), for transporting nine thousand pounds of ammunition from Helena to the arsenal at Virginia City.

Approved January 17, 1874.

---

Council Concurrent Resolution in relation to printing.

*Resolved, by the Legislative Council of the Territory of Montana, the House concurring :*

That the sum of three hundred and eighty-three dollars be and is hereby appropriated, out of any moneys not otherwise appropriated in the treasury, to George F. Cope, for newspapers furnished, and for printing for the Legislative Assembly of the territory of Montana, and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer for said amount.

Approved February 12, 1874.

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OF THE

TERRITORY OF MONTANA,

PASSED AT THE

NINTH REGULAR SESSION

OF THE

LEGISLATIVE ASSEMBLY,

HELD AT THE TOWN OF HELENA, THE CAPITAL OF THE SAID TERRITORY,  
COMMENCING JANUARY 3, A. D. 1876, AND ENDING FEBRUARY 11,  
A. D. 1876.

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, AND THE  
ORGANIC ACT AND AMENDMENTS THERETO  
OF THE TERRITORY.

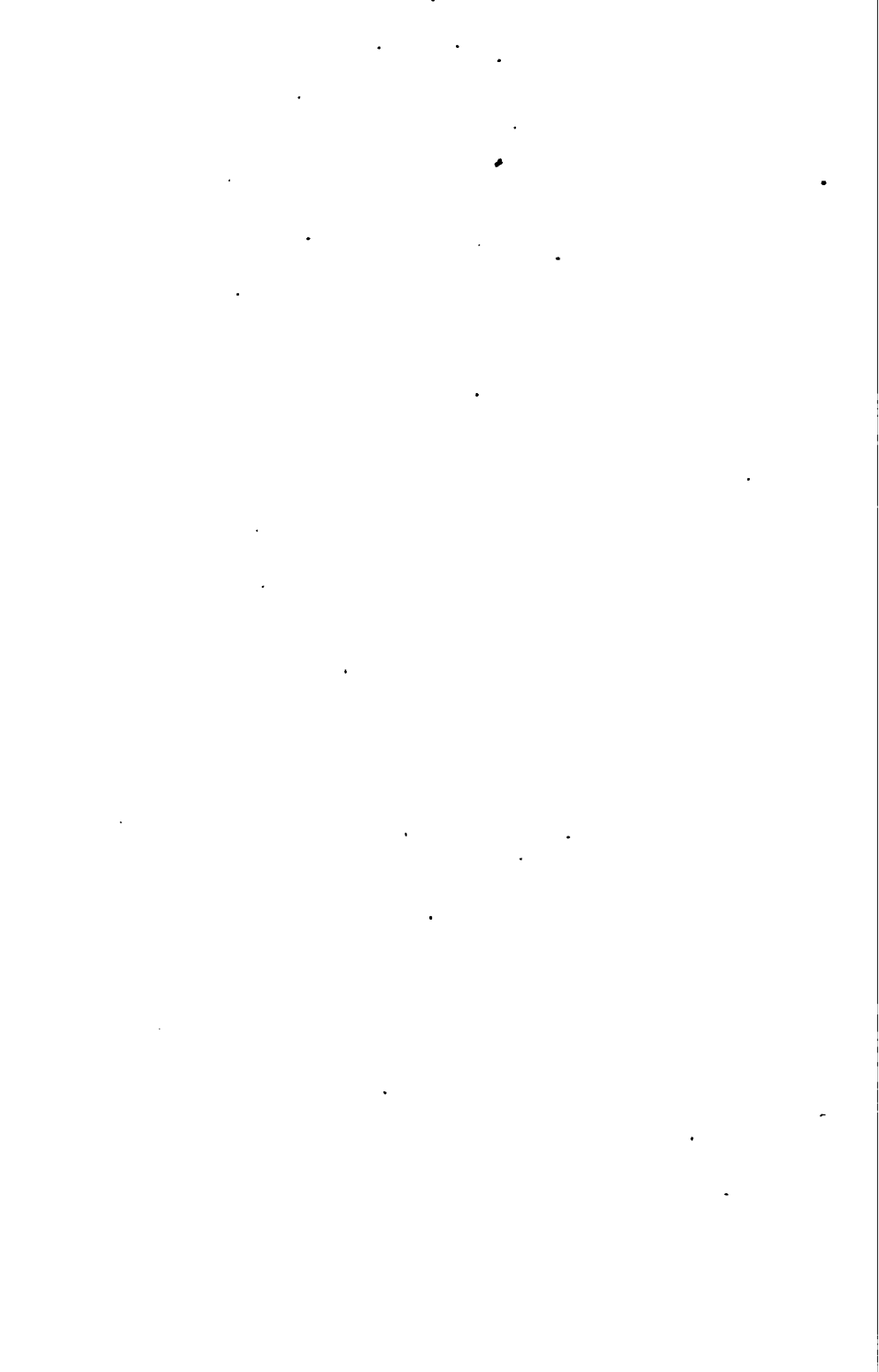
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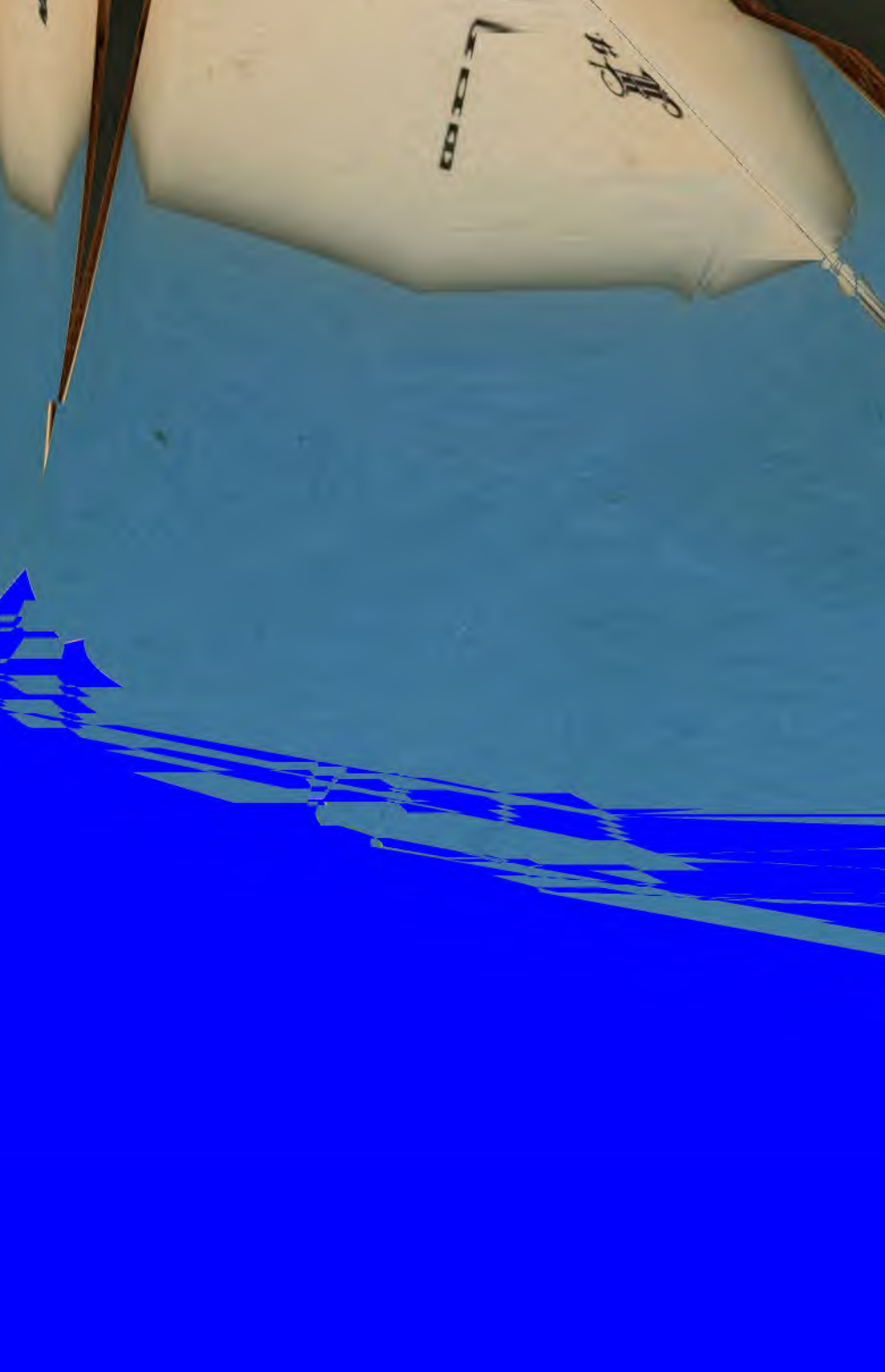
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## CERTIFICATE OF AUTHENTICATION.

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TERRITORY OF MONTANA, }  
SECRETARY'S OFFICE, } ss:

I, JAMES E. CALLAWAY, Secretary of the territory of Montana, do hereby certify that the printed laws, joint memorials and joint resolutions contained in this volume are true, correct and full copies of all the enrolled laws, joint memorials and joint resolutions that were passed at the ninth regular session of the legislative assembly of said territory, begun and held at the town of Helena, the capital of said territory, on the 3d day of January, A. D. 1876, and ending on the 11th day of February, A. D. 1876, with the exceptions of corrections in orthography, punctuation, and omissions inserted in brackets.

[SEAL] In testimony whereof I have hereunto set my hand and affixed the great seal of said territory. Done at the town of Helena, the capital of said territory of Montana, this 23d day of February, A. D. 1876.

J. E. CALLAWAY, *Secretary.*



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CONSTITUTION  
OF THE  
UNITED STATES OF AMERICA.

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WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representative and direct taxes shall be apportioned among the several states which may be included within this Union,

according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 8. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sec. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of

the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such consideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall

not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on the question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion ;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress ;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings ; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution and government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another ;

nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net products of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

Section. 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole



number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[\*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws are faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

Section 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their office during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [\*between a state and citizens of another state;] between citizens of different states; between citizens of the

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\*Annulled. See 11th Amendment.

same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress may make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

#### ARTICLE IV.

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony; or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state under the laws thereof, escaping to another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sec. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them from invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

#### ARTICLE V.

The congress whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES.

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ARTICLE I.

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

## ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise re-examined by any court of the United States than according to the rules of the common law.

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.



## ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the persons voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before

the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

#### ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature

thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

Sec. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including the debts incurred for payment of pension and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

#### ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

ORGANIC ACT  
OF THE  
TERRITORY OF MONTANA.

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(PUBLIC, No. 76.)

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AN ACT to provide a temporary government for the Territory of Montana

*Be it Enacted by the Senate and House of Representatives of the  
United States of America, in Congress assembled :*

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky Mountains; thence following the crest of the Rocky Mountains northward till its intersection with the Bitter Root Mountains; thence northward along the crest of said Bitter Root Mountains to its intersection with the thirty-ninth degree of longi-

tude west from Washington; thence along said thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory and shall be commander in chief of the militia and superintendent of Indian affairs thereof. He may grant pardons and respites for offences

against the laws of said territory, and reprieve for offences against the laws of the United States, until the decision of the president of the United States can be made known thereon ; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

Sec. 3. *And be it further enacted,* That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States ; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department ; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

Sec 4. *And be it further enacted,* That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion

to the increase of qualified voters; and the council, in like manner, to thirteen. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties, for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be

prescribed by law, as well as the day of commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

Sec. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intention to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Each bill which shall have passed the council and house of representatives of the said territory, shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the assembly, by



adjournment, prevent its return, in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said dis-

tracts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be limited by law; *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the district and circuit courts of the United States; and the first six days of every

term of said court, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases the same fees which the clerks of the district courts of Washington territory now receive for similar service.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the present territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses, shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney and mar-

shal, shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective appointments at the treasury of the United States; but no payment shall be made until said officers shall have entered

upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel, in going to and returning from said sessions, estimated according to the nearest usually traveled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the legislative assembly of the territory of Montana shall hold its first session at such time and place in said territory as the governor thereof

shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter by a majority of the legal votes cast on that question.

Sec. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the time and places, and manner of holding elections, shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the constitution and all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said Montana territory as elsewhere within the United States.

Sec. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

Sec. 15. *And be it further enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Sec. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Sec. 18. *And be it further enacted*, That until congress shall otherwise direct, all that part of the territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of

north latitude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirt-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington, to the forty-first degree north latitude, thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,  
WASHINGTON, May 28, 1864. }

A true copy:

W. H. HUNTER, *Chief Clerk.*

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(PUBLIC, No 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved March 21, 1864.

*Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:*

That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies incorporate for mining, manufacturing, and other industrial pursuits.

Sec. 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt



claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory, as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce cases; *And provided further*, That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

Sec. 3. *And be it further enacted*, That the chief justice and associate justices of said territory and the territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

Sec. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

Sec. 5. *And be it further enacted*, That for the purpose of receiving the legislative functions of the territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall

be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly so elected shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of said territory, and from such other sources of information as shall enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

Sec. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected shall, by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory; *And provided further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

Sec. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

Sec. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

AN ACT regulating the compensation of the members and officers of the Legislative Assemblies of the several territories of the United States and limiting the duration of the sessions of said assemblies.

*Be it Enacted by the Senate and House of Representatives of the United States of America, in Congress assembled :*

That the sessions of the legislative assemblies of the several territories of the United States shall be limited to forty days duration.

Sec. 2. That the members of each branch of said legislatures shall receive a compensation of six dollars per day during the sessions herein provided for, and they shall receive such mileage as now provided by law: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive a compensation of ten dollars per day, and that the additional officers of each branch of said legislative assemblies shall consist of one chief clerk, who shall receive a compensation of eight dollars per day, and one assistant clerk, one enrolling clerk, one engrossing clerk, one sergeant-at-arms, one door-keeper, one messenger, and one watchman, who shall each receive a compensation of five dollars per day during the sessions.

Sec. 3. That from and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several territories of the United States shall be three thousand five hundred dollars, and the salaries of the secretaries of said territories shall be two thousand five hundred dollars each.

Sec. 4. The provisions of this act shall not apply to the District of Columbia: *Provided*, That no law of any territorial legislature shall be made or enforced by which any officer of a territory herein provided for, or the officers or members of any territorial legislature shall be paid any compensation other than that provided by the laws of the United States.

Approved January 28, 1873.

# LAWS OF MONTANA.

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## AUDITOR.

AN ACT to repeal an act entitled "An Act defining the duties of Territorial Auditor."

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That an act entitled "An Act defining the duties of territorial auditor," approved February 18th, 1874, be, and the same is hereby, repealed.

Approved January 24th, 1876.

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## BRIDGES.

AN ACT for the protection of public bridges in the Territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. It shall hereafter be unlawful for any person or persons to ride or drive any animal over or across any public bridge, crossing any stream or river in the territory of Montana, faster than a walk. Regulates speed in passing over bridges. And any person violating the provisions of this section shall be adjudged guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, Penalty for violation of this section. or by both such fine and imprisonment.

Regulation as to driving loose stock over bridges.

Sec. 2. It shall hereafter be unlawful for any person or persons to drive any loose stock, such as horses, mules or cattle, over or across any public bridge, crossing any stream or river in the territory of Montana, in a larger number than fifteen head of such loose stock, at any one time. And any person violating the provisions of this section shall be adjudged guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

Penalty for violating sec. 2.

Notices posted on bridges.

Sec. 3. It shall be the duty of the board of county commissioners to cause to be posted at each end of all bridges coming under the provisions of this act, notices setting forth substantially the provisions of this act.

Act not to apply to bridges under forty feet in length.

Sec. 4. This act shall not apply to any bridge the span of which is less than forty feet.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

## CHATTEL MORTGAGES.

### AN ACT concerning chattel mortgages.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Penalty for removing, concealing, or disposing of mortgaged property, without written consent of mortgagee or assignee.

Section 1. That any mortgagor, or agent, servant, or employe of any mortgagor of personal property, who shall, during the time such mortgage remains in force and virtue, destroy, conceal, sell, or otherwise dispose of the property mortgaged, or who shall remove said property from the county in which said mortgage is recorded, without the written consent of the mortgagee, or assignee of the mortgagee, shall be deemed guilty of a misdemeanor, and on

conviction thereof shall be punished by fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days, nor more than six months, or by both such fine and imprisonment, at the discretion of the court.

Sec. 2. This act shall be in force from and after its passage.

Approved February 11, 1876.

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#### CIVIL PRACTICE ACT.

AN ACT to amend section six hundred and thirty (630) of the Civil Practice Act, concerning proceedings in probate courts.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. Section six hundred and thirty (630) of "An Act to regulate proceedings in civil cases in the courts of justice in the territory of Montana," approved January 12, 1872, is hereby amended so as to read as follows : Section amend-  
ed.

"Sec. 630. The provisions of this act, so far as applicable, shall govern the proceedings and practice in the probate courts of the territory in civil actions ; but no judgment rendered in the probate court shall be a lien upon any real estate, nor shall any real estate be sold on execution issued out of the probate court. Any person recovering a judgment in the probate court may file a certified transcript of such judgment with the clerk of the district court of the county wherein such judgment is recovered ; and said clerk shall docket such judgment in the same manner as judgments rendered in said district court. And said judgment, from the time of such docketing, shall be a lien upon the real Judgment rendered in probate court not a lien on real estate.

How judgment rendered in probate court made a lien on real estate.

estate of the defendant, as provided by law; and execution may be issued thereon by the clerk of the said district court, and real estate sold in the same manner as on other executions issued on judgments in said district court: *Provided*, That writs of attachments issued out of the probate court may be levied on real estate in the same manner as writs issued out of the district court; but no such real estate levied on by attachment shall be sold on execution until the judgment is docketed in the district court above provided."

Acts repealed.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 2, 1876.

# CIVIL PRACTICE ACT.

## AN ACT concerning judgments in justices' courts.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Party obtaining judgment in justice's court may demand transcript and file in office of district clerk.

Sec. 1. That section 720, chapter 4, of the civil practice act of Montana, be so amended as to read as follows:

"Sec. 720. The justice, on demand of the party in whose favor judgment is rendered, shall give him a transcript thereof, which may be filed and docketed on the judgment docket in the office of the district clerk of the county where the judgment was rendered. The time of the receipt of the transcript

When transcript filed in district clerk's office, judgment becomes a lien on real estate of the defendant.

by the district clerk shall be noted by him thereon, and entered on the docket, and from that time the judgment shall be a lien upon the real property of the defendant, the same as judgments in district courts; and executions may be issued by the dis-

strict clerk, on such judgment, to the sheriff of any county of the territory, in the same manner as upon judgments rendered in the higher courts.

"No judgment rendered by a justice of the peace shall be a lien, except when a transcript is filed, as above provided; and no levy of an execution from a justice's court shall be made on real property. Judgment in justice's court not to affect real property, unless transcript filed with district clerk.

When such transcript is to be filed in any other county than the one in which the justice resides, such transcript shall be accompanied by the certificate of the county clerk as to the official character of the justice in the county where he resides. Such judgment shall be a lien upon and bind the lands and tenements of the judgment debtor, situated in the county where the transcript may be filed and recorded in favor of such judgment creditor, as if such judgment had been rendered in the district court of such county. Judgment to be lien upon real estate of judgment debtor, in any county where transcript filed.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed. Acts repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 5, 1876.

#### CIVIL PRACTICE ACT.

AN ACT to amend sections 244 and 247 of the Civil Practice Act.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That sections 244 and 247 of chapter 11 of the civil practice act, codified laws of Montana territory, be amended so as to read as follows: Sections amended.



When judgment-roll filed and docketed, the judgment to be lien on real estate of judgment debtor.

"Sec. 244. Immediately after filing a judgment roll, the clerk shall make the proper entries of judgment, under appropriate heads, in the docket kept by him, and, from the time the judgment is docketed, it shall become a lien on the real property of the judgment debtor, not exempt from execution in the county, owned by him at the time, or which he may afterwards acquire, until said lien expires. The lien shall continue for six years, unless the judgment be previously satisfied."

Life of lien.

Certified transcript may be filed in any county. Judgment to become lien from time of filing same.

"Sec. 247. A transcript of the original docket, certified by the clerk, may be filed with the recorder of any other county, and from the time of filing, the judgment shall become a lien upon all the real property of the judgment debtor, not exempt from execution in such county, owned by him at the time, or which he may afterwards acquire, until the said lien expires. The lien shall continue for six years, unless the judgment shall be previously satisfied."

Acts repealed.

Sec. 2. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 7, 1876.

# CIVIL PRACTICE ACT.

## AN ACT concerning motions.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section amended.

Section 1. That section 567 of title 15 of the civil practice act be amended so as to read as follows :

"Sec. 567. Motions shall be made in the county <sup>Motions where shall be made.</sup> in which the action is brought, or in any adjoining county in the same district: *Provided, however,* That in case of the absence of the judge of the district from his district, such motion may be made before the judge of any adjoining district. Written notice of a motion, as provided in this act, shall only be required in case of a motion made out of term time. Notice of a motion made in term time, <sup>Notice of motions how given.</sup> except those made during the progress of a trial, shall be entered in a book to be kept for that purpose, and called the motion book; and such motion shall be for hearing after twenty-four hours from the time such notice is entered in the motion book."

Sec. 2. All acts and parts of acts in conflict with <sup>Acts repealed.</sup> this (act) are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

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#### CORPORATIONS.

AN ACT to amend an Act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory."

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. Section 47 of chapter 18 of an act entitled "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872, is hereby amended so as to read as follows :

"Sec. 47. That any company or corporation incorporated as in section one (1) of this act, that shall

Incorporated company not filing charter or certificate of incorporation, guilty of wilful negligence.

When corporation guilty of wilful neglect, party suing same may prove existence of, by reputation.

neglect or refuse, for the period of thirty days, to file for record their charter or certificate of incorporation, or copy thereof, with the secretary of the territory and county recorder of the county wherein such business may be carried on, shall be deemed guilty of wilful negligence on the part of said company or corporation ; and, thereafter, any person or persons maintaining or prosecuting any civil action in any court of this territory against said company or corporation so neglecting or refusing to file for record their charter or certificate of incorporation, or copy thereof, with the secretary of the territory and county recorder, as hereinbefore provided, shall not be held to prove on trial, the incorporation of said company or corporation by the original charter or certificate of incorporation, or act of incorporation ; but the same may be proved by general reputation. And the provisions of this section shall also apply to all companies and incorporations, incorporated by the legislature, or under the general laws of incorporation of any state or territory of the United States, other than this territory, that shall have failed or refused to file its charter, or certificate of incorporation, or act of incorporation, or a copy thereof duly authenticated, as provided in section 46 of this act, with the secretary of the territory and the county recorder of the county in which such company or corporation is carrying on business prior to the commencement of the civil action mentioned in this section.

Approved February 3, 1876.

## CORPORATIONS.

AN ACT to provide for the formation of corporations other than those for pecuniary profits.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. Any number of persons not less than three, may associate themselves together and become incorporated for the purpose of establishing and conducting colleges, seminaries, libraries, or any scientific, medical, legal, social, agricultural, benevolent, or missionary societies, fire department, association or any society for the purpose of instruction in any art or science as provided herein.

Sec. 2. They may adopt and sign articles of association, and acknowledge the same before some officer authorized by law to take acknowledgments of deeds, which certificate shall show, *First*, The name of the corporation, its general purpose and plan of operation, the length of its existence, which shall not exceed twenty years, and the place of its location. *Second*, The terms of admission to membership, and the amount of monthly, quarterly, or yearly contributions required of its members. *Third*, If there is capital stock, the number of shares and the amount constituting a share. *Fourth*, The officers of the corporation or society, with time and place of appointing or electing the same, and the number of trustees or directors, if any, who are to conduct the transactions of the society during the first year of its existence. Said certificate shall be recorded in the office of the county recorder of the county in which said society shall be located, and a duplicate copy of such certificate shall be filed in the office of the secretary of the territory.

Sec. 3. Upon filing and recording such certificate as aforesaid, the persons therein named shall be.

come a body politic and corporate, with power to sue and be sued by its corporate name, to have a common seal, which may be altered at pleasure, to establish by-laws, and make all rules and regulations deemed expedient for the management of its affairs in accordance with law.

Sec. 4. No dividend or distribution of property among the members or stockholders of any corporation formed under the provisions of this act shall be lawful, until the dissolution of such corporation.

Sec. 5. Any corporation formed under the provisions of this act shall have the right to take by purchase, gift, grant, or devise, and hold and use so much real estate, and no more, as may be necessary to enable it to carry out the object for which it was formed.

Sec. 6. The trustees of any college or seminary incorporated under provisions of this act, besides the general powers and privileges aforesaid, shall have power, *First*, To appoint and fix the salaries of a president, professors, tutors, and such other officers and agents as they may deem necessary and remove them at pleasure. *Second*, To direct and prescribe the course of study and discipline to be observed in the institution, and to grant such literary honors and degrees as are usually granted by any such institution in the United States. And in testimony thereof to give suitable diplomas under their seal, and the signatures of such officers of the institution as they may deem expedient.

Sec. 7. Any institution or society now in existence in this territory of the character mentioned in section one of this act, may enjoy all the benefits of this act, by complying with the provisions thereof, and may, by a vote of a majority of the members of such society, association, or company, to be taken in accordance with the by-laws or other legal regulations thereof, determine to avail itself of the pro-

visions of this act, and to take and assume corporate name and powers thereunder; and may, by like vote, transfer to such corporation, when formed, all its property, real, personal and mixed, and thereupon said corporation to which such property is so transferred, shall take and hold the same, in the same manner, to the same extent, and with like effect, as the same was previously owned and held by the society, company, or association, so transferring the same, and may in its corporate name, sue for, and collect, all debts, dues, demands, subscriptions, devices, and bequests thereof. The said corporation so taking such property, shall take the same subject to all liens, trusts, and limitations, both legal and equitable, to which the same was subject before such transfer; and shall also be liable for all debts and obligations of such previous company or association, and shall pay the same to the full extent of the value of such property at the time of taking the same.

Approved February 9th, 1876.

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#### COSTS.

AN ACT relative to costs in divorce cases.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. That section seven, of chapter twenty-two, of "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory, be amended so as to read as follows:

"Sec. 7. Any woman suing for a divorce who shall make it appear satisfactorily to the court that she is poor and unable to pay the expenses of such suit, shall be allowed by the court to prosecute her suit without costs."

Section amended.

Woman may prosecute suit for divorce without costs if unable to pay same.

Acts repealed. Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved January 24, 1876.

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COUNTY BOUNDARIES.

AN ACT in relation to counties and county boundaries.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That section 2 of chapter 20, codified statutes, be amended so as to read as follows :

“Sec. 2. That all that portion of the territory of Montana embraced in the following described boundaries shall be known as the county of Deer Lodge, to-wit: Commencing in the middle of Hell Gate river at a point directly opposite the most northerly point of the Medicine Tree hill; thence down the middle of said river to the mouth of Stony creek; thence up the middle of said creek to the middle branch of said creek; thence up the said middle branch of Stony creek to the summit of the Rocky mountains; thence in a southerly direction to the nearest stream of water that empties into the Big Hole river; thence down said stream to the Big Hole river; thence down the middle of said river to the mouth of Camp creek; thence up Camp creek to its right hand fork; thence up said fork to its source; thence in a direct line to the center of the summit of Table mountain; thence in a direct line to Parson's bridge, on the Jefferson river; thence westerly along Parson's toll road leading from said bridge to Butte City, to the point where said road crosses Fish creek; thence up said Fish creek to the base of the mountains; thence in a northerly direction to the summit of the main range of the Rocky mountains; thence along the

Boundaries of  
Deer Lodge  
county.

summit of said mountains in a northerly direction to a point directly north of Medicine Tree hill; thence due south to the place of beginning in the middle of the Hell Gate river, opposite Medicine Tree hill."

Sec. 2. That section 9 of chapter 20, codified statutes, be amended so as to read as follows: Section amended.

"Sec. 9. That all that portion of the territory of Montana, embraced in the following described boundaries, shall be known as the county of Choteau, to-wit: Commencing at a point in the middle of the main channel of the Missouri river, opposite to the mouth of Deep creek; thence due east to intersect with the one hundred and eighth meridian of longitude; thence due north along the one hundred and eighth meridian of longitude to the intersection of the forty-ninth parallel of latitude; thence due west along the forty-ninth parallel of latitude, to a point directly north of Medicine Tree hill; thence due south to the summit of the main range of the Rocky mountains; thence along the summit of said mountains in a southerly direction to the head of the most northerly branch of Sun river, that heads in the Rocky mountains; thence in a easterly direction down the middle of said branch of Sun river to its mouth; thence down the middle of the main channel of the Sun river to the middle of the main channel of the Missouri river; thence up the middle of the main channel of the Missouri river to the place of beginning." Boundaries of Choteau county.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed. Acts repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.



## COUNTY BOUNDARIES.

AN ACT defining the boundary lines of Meagher county.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section  
amended.

Sec. 1. That section one of an act, to amend section seven of chapter twenty of an act, entitled "an act revising, re-enacting and codifying the general and permanent laws of Montana territory," approved February 18th, 1874, be amended so as to read as follows: "That all that part of Montana territory, embraced within the following boundaries, be, and the same is hereby, declared to be Meagher county, to-wit: Commencing in the middle of the main channel of the Missouri river, opposite the mouth of Sixteen Mile creek; thence easterly along the center of the main channel of said Sixteen Mile creek, four miles; thence north to the northern boundary of Gallatin county; thence due east along said line to the one hundred and ninth parallel of longitude; thence due north along the one hundred and ninth parallel of longitude to the middle of the main channel of the Musselshell river; thence down the middle of the main channel of the Musselshell river to a point due east of the mouth of Smith's river; thence due west along the southern boundary line of Choteau county to the middle of the main channel of the Missouri river, opposite the mouth of Smith's river; thence up the middle of the main channel of the Missouri river to the place of beginning."

Boundaries of  
the county of  
Meagher.

Acts repealed.

Sec. 2. That the original section one, of which this act is amendatory, be, and the same is hereby, repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

## COUNTY COMMISSIONERS.

AN ACT to amend section thirteen of chapter twenty-one of "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory," on folio 435 of the codified statutes.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That section thirteen (13) of chapter twenty-one (21) of "An Act revising, re-enacting, and codifying the general and permanent laws of Montana territory " be so amended as to read as follows, to-wit :

"Sec. 13. Each member of the board of county commissioners shall be paid by the county ten cents per mile for the distance necessarily traveled in going to, and returning from, the county seat, and six dollars per day, out of the contingent fund of the several counties, for each day while in actual session, and no other compensation shall be allowed."

Sec. 2. That all acts and parts of acts conflicting with this act, be, and the same are hereby, repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 19, 1876.

## COUNTY COMMISSIONERS.

AN ACT to amend an act entitled "An Act authorizing the county commissioners of the several counties to dispose of the surplus moneys in the different county funds," approved February 13th, 1874.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. The county commissioners of the several counties are hereby authorized to transfer all sur-

County commissioners authorized to transfer certain funds to other funds.

plus moneys that may be on hand in any of the several county funds, except the school fund, to such fund or funds as they may deem for the best interest of their respective counties, or to appropriate said surplus moneys to the payment of the outstanding indebtedness of their respective counties.

No moneys to be taken from school fund except for school purposes.

*Provided*, That no moneys belonging to the school fund shall be taken therefrom, except for school purposes.

**Sec. 2.** All acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby, repealed.

**Sec. 3.** This act shall take effect and be in force from and after its passage.

Approved January 24, 1876.

#### COUNTY OFFICERS.

AN ACT to amend "An Act in relation to counties and county officers," approved January 12th, 1872.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

**Sec. 1.** That section one of an act entitled "An Act relating to counties and county officers," approved January 12th, 1872, be so amended as to read as follows: "The county commissioners of the different counties of this territory may set apart, from the county part of the revenue of their respective counties, a certain sum, annually, for the payment of the outstanding county bonds and the interest thereon: *Provided*, That the sum so set apart shall not exceed seven mills of the number of mills levied for county tax. Said fund shall be known as the sinking fund to pay said bonds and interest, and which bonds shall be paid in the order in which they were issued, and whenever a sufficient sum

County commissioners may set aside part of revenue to pay bonds and interest.

shall have accumulated in said sinking fund to pay any bond, over and above the sum required to pay the annual interest on the outstanding bonds, it shall be the duty of the treasurer to post upon the door of his office a notice, that there is money in his hands to pay such bonds, designating it by the number, date, amount, and the name of the payee, and from the date of such notice the interest of such bond or bonds shall cease, and it shall be the duty of the treasurer to file a true copy of such notice in the office of the clerk of his county, and the clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be prima facie evidence of such filing."

Treasurer to post notice when money to pay bonds.

Duty of clerk under the act.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Acts repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

#### COUNTY POOR.

AN ACT to provide for the support, care and maintenance of the county sick and poor.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That the board of county commissioners of the several counties of this territory are hereby vested with entire and exclusive superintendence of the poor in their respective counties.

County commissioners to have superintendence of the poor.

Sec. 2. Every poor person who shall be unable to earn a livelihood in consequence of bodily infirmities, idiocy, lunacy, or other cause, shall be supported by the father, grand-father, mother, grand-mother, children, grand-children, brothers or sisters of such

Poor supported  
by relatives.

poor person, if they, or either of them, be of sufficient ability; and every person who shall fail or refuse to support his or her father, grand-father, mother, grand-mother, child, sister or brother, when directed by the board of county commissioners of the county where such poor person shall be found, whether such relation reside in the county or not, shall forfeit and pay to the county for the use of the poor of their county, the sum of thirty dol-

Action against  
relative refus-  
ing to support  
poor.

lars per month, to be recovered in the name of the county commissioners, for the use of the poor aforesaid, before any justice of the peace, or any court having jurisdiction: *Provided*, That when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support except parent or child.

Order in which  
relatives called  
on to support  
the poor.

Sec. 3. The children shall be first called on to support their parents, if there be children of sufficient ability; if there be none, the parents of such poor person shall be next called on; and if there be no parents or children of sufficient ability, the brothers and sisters shall next be called on; and if there be no brothers and sisters, the grand-children of such poor person shall be called on, and then the grand-parents; but married females, while their husbands live, shall not be liable to a suit.

Pauper having  
no relatives or  
the same being  
unable to sup-  
port pauper, the  
county to care  
for same.

Sec. 4. When any poor person or persons shall not have relations in any county in this territory, as are named in the preceding sections, or such relations shall not be able financially, or shall fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require, out of the county treasury, as is hereinafter provided.

Sec. 5. The county commissioners of their respective counties shall, at their regular session in September of each year, make an order directing the clerk of the board to publish a notice in a newspaper, inviting sealed proposals for the care, sup-

port, and maintenance of the sick, poor, and infirm of the county, per capita, by the week, for the succeeding year; said proposals to include and cover the entire cost of feeding, clothing and nursing of the said sick, poor and infirm, and all burial expenses thereof; said notice to be inserted in said newspaper immediately after the order is made, and continue for four consecutive weeks.

Notice for sealed proposals for maintenance of the poor.

Sec. 6. Said proposals shall be addressed to the clerk of the board of county commissioners, and the said commissioners shall, at their December term, in the year A. D. 1876, and annually thereafter, open and carefully compare said bids, or proposals, and shall award the contract for the care, support, and maintenance of the sick, poor, and infirm of the county, by the week, per capita, to the lowest responsible bidder for the ensuing year.

Contracts for maintenance of the poor.

Sec. 7. And the boards of county commissioners of the several counties shall, annually at their December meeting, make a contract with some resident practicing physician, to furnish medicines and medical attendance to the said sick, poor, and infirm of their respective counties, and to the inmates of the county jail who may require medicines or medical treatment for the succeeding year.

Contract for medical attendance of poor.

Sec. 8. The person or persons to whom said contracts shall be awarded as provided for in sections 6 and 7 of this act, shall, before entering upon their duties as such contractors, execute a bond running to the people of the territory of Montana, in a sum not less than one thousand, nor more than five thousand, dollars, with two or more sureties, conditioned for the faithful performance of their respective contracts; said bond to be approved by and filed with the probate judge of the county. It shall be the duty of the physician to whom such contract shall be awarded, in whole or part, as provided in section 7 of this act, to examine each week all persons

Bond to be given under sections 6 and 7.

who are or may become a charge upon the county, and, if after such examination he shall be satisfied that the physical condition of such person or persons is such as to enable such person to support and maintain himself or herself, he shall so notify the contractor or contractors having such person or persons in charge, as provided for in section 6 of this act, by leaving with such contractor or contractors a notice, and file a duplicate thereof with the clerk of the board of commissioners, which notice shall be in substance as follows, to-wit: "A. B.—You will take notice that C. D. has so far recovered as to require no further care or medical treatment.

(Signed)

"E. F. Physician."

And after the serving of said notice, and filing the duplicate thereof with the clerk, said person mentioned in said notice shall cease to be a charge upon said county.

Sec. 9. When any minor under fifteen years of age, or any other person shall become, or be likely to become, chargeable to the county either because of being an orphan, or because the parents or other relatives, as aforesaid, are unable or refuse to support such minor, it shall be the duty of the county commissioners, upon a written application to them made by any person of the county, to bind such minor as an apprentice to some respectable house-holder of the county, by written indenture, which shall bind such minor to serve as an apprentice.

When county commissioners to apprentice minor.

And such minor shall be permitted to attend school, if there is one kept in his or her district, for some period of time in each year, to be prescribed in the article of indenture by the said board of county commissioners. And if said commissioners shall fail, neglect, or refuse to so apprentice said minor at their regular session immediately succeeding said application, then said county shall not thereafter be chargeable with the care, support, and maintenance of such minor person or sons.

Sec. 10. When any non-resident not coming within the definition of a pauper shall fall sick in any county in this territory, not having money or property to pay his board, nursing, or medical attendance, it shall be the duty of the commissioners of the proper county, on application being made, to give, or order to be given, such assistance to such person as they may deem just and necessary; and if such sick person shall die, then the said commissioners shall order to be given to such person decent burial; and the said commissioners shall make such allowance for board, nursing, and medical attendance, or burial expenses, as they may deem just and equitable, and order the same to be paid out of the county treasury.

Duty of commissioners if non-resident persons without money or property fall sick or die in county.

Sec. 11. All persons seeking relief under the provisions of this act, shall make application to the chairman of the board of county commissioners, or to the probate judge of said county, who, before granting an order for such relief, shall require of said pauper satisfactory evidence that he or she has been a resident of the county for two months immediately preceding the day upon which said application is made.

Application for relief under this act.

Sec. 12. When application is made by any pauper to the board of county commissioners as aforesaid, it shall appear to the satisfaction of said board that the person so applying for relief has resided in said county for two months, he shall be entitled to all the relief provided by this act; but if on examination it shall appear that said pauper is a resident of some other county of this territory, the commissioners shall, at the expense of the county, cause said pauper to be removed to the county of which he is a resident, or may, if they think best, issue a notice directed to some constable of the county, which said constable shall serve forthwith on said pauper, requiring him to depart forth-

Residence of pauper two months in county entitled to relief.



Duty of commissioners if pauper is resident of some other county. with from the county ; and after so serving said notice by reading the same to said pauper, said constable shall within five days thereafter return the same to the clerk of the board of county commissioners issuing the same, noting the time and manner of service.

When pauper not entitled to relief. Sec. 13. After service of such notice aforesaid, no pauper shall be entitled to relief from such county, unless the county commissioners deem it absolutely necessary.

Powers of commissioners to purchase and improve poor farm. Sec. 14. The board of county commissioners of any county in this territory may, if they think proper, purchase, improve, and keep in repair a tract of land not exceeding one hundred and sixty acres, to be known as a poor farm, and to erect thereon suitable work houses for the use, health, and employment of such person or persons as are, or who may become, from time to time, a county charge ; and such poor farm, with such work houses as may be erected thereon, together with such pauper as may become a county charge, shall be under such rules and regulations as the county commissioners may deem just and proper ; and the county commissioners may, if in their judgment they deem it best, provide for the care, support, and maintenance of the sick, poor, and infirm of their respective counties upon said poor farm.

Surplus monies of poor fund how set apart. Sec. 15. Any surplus that may accumulate in the poor fund of the several counties, may be set apart and applied to the purposes of section 14 of this act.

Penalty if commissioner fail or refuse to discharge his duties under this act. Sec. 16. Any county commissioner, or commissioners, who shall fail, refuse, or neglect to perform any of the duties prescribed by the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars.

Sec. 17. All acts and parts of acts in conflict with the provisions of this act, be, and the same are <sup>Acts repealed.</sup> hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

#### CRIMINAL LAWS.

AN ACT to amend section 78, of chapter 6, of the criminal laws of Montana Territory.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. Every person who shall feloniously steal, take, and carry away, lead or drive away the personal goods or property of another, under the value of fifty dollars, shall be deemed guilty of petit larceny, and upon conviction thereof shall be punished by imprisonment in the county jail, not more <sup>Penalty for larceny of goods valued under fifty dollars.</sup> than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment. And the court passing sentence upon any person or persons convicted under this section, may order that such person or persons may be kept on bread and water during all or any portion of his or their imprisonment.

Sec. 2. That section 73 of chapter 6, of the criminal laws of Montana territory, be, and the same is, <sup>Section repealed.</sup> hereby repealed.

This act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1876.

## CRIMINAL LAWS.

AN ACT to amend section one of an act entitled "An Act to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana," approved May 2d, 1873.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Officer neglecting or refusing to perform official duty to be punished.

Section 1. If any officer, board, or commission charged by law with any official duty, shall neglect or wilfully fail or refuse to fully do, perform or discharge such duty, such officer, and the members comprising such board, or commission, responsible therefor, shall be deemed guilty of a misdemeanor, and being thereof convicted, shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment of not less than ten days nor more than one year, or by both such fine and imprisonment in the discretion of the court. And if such imprisonment shall not be for more than three months, the same shall be in the county jail of the county in which such offense was committed; but if the said imprisonment shall exceed three months, then such imprisonment shall be in the penitentiary.

Officer violating sec. 1 liable to party injured.

Sec. 2. If any officer or member of any board or commission shall be convicted of a violation of section one of this act, such officer or member of such board or commission, shall be liable to the municipality damaged by such neglect, failure or refusal, for any and all damages which such municipality has suffered thereby, recoverable in an action brought for that purpose, as are other actions at law.

Officer guilty of fraud or oppression to be punished; also liable to party injured.

Sec. 3. If any officer or the members of any board or commission, under color of their office, shall be guilty of any fraud, oppression, extortion, or deceit, they shall be deemed guilty of a misdemeanor, and shall also be liable to the party injured thereby to

the extent of such damage, with exemplary damages, if the same was malicious. And if any such officer or member shall be convicted of the misdemeanor in this section defined, he shall be punished by a fine of not less than ten nor more than five hundred dollars, or may be imprisoned in the county jail not less than ten days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Sec. 4. The district court shall have jurisdiction of the misdemeanor herein defined, and the district judge shall give in charge to the grand jury the misdemeanor defined in section one of this act, and charge them that they shall diligently enquire and duly present all persons violating the same.

District court to have jurisdiction of offenses under this act; also, district judge to charge grand jury.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 11th, 1876.

#### CRIMINAL PRACTICE ACT.

AN ACT prescribing the jurisdiction of courts in criminal cases.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That section six of an act entitled "An Act to amend an act to regulate proceedings in criminal cases in the courts of justice in the territory of Montana," approved February 13th, 1874, be amended so as to read as follows:

Section amended.

"Sec. 6. That the district and probate courts shall have concurrent jurisdiction of all misdemeanors for the county in which they shall be qualified to act when the punishment therefor does not exceed a fine of five hundred dollars, or imprisonment for six months in the county jail, or by both such fine and imprisonment; but nothing in said act shall

District and probate courts to have concurrent jurisdiction in certain classes of misdemeanors.

deprive the district court of jurisdiction over such misdemeanor, as the grand jury may, of its own motion, take cognizance of."

Sec. 2. This act to take effect and be in force from and after its passage.

Approved February 11th, 1876.

#### CRIMES AND PUNISHMENTS.

AN ACT in relation to crimes and punishments.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Persons living in open and notorious state of adultery to be punished.

Section 1. That if any married woman shall hereafter desert her husband, and live and cohabit with another man, in a state of adultery, she shall, on conviction thereof, be imprisoned in the county jail of the county where such offense is committed, not exceeding sixty days. And if any married man shall hereafter desert his wife, and live and cohabit with any other woman in a state of adultery, or if any married man living with his wife, shall keep any other woman and notoriously cohabit with her, in a state of adultery ; or if any unmarried man shall live and cohabit with a married woman in a state of adultery, or if any unmarried man shall live and cohabit with an unmarried woman, every person so offending shall, on conviction thereof, be fined in any sum not exceeding three hundred dollars, and be imprisoned in the county jail of the county where such offense is committed, for a period not exceeding six months, and not less than sixty days.

Sec. 2. All acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved January 28, 1876.

## DISEASED ANIMALS.

AN ACT in relation to diseased animals.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That all flocks of sheep now, or hereafter, in the territory of Montana, affected with the "scab," or other contagious disease, shall be kept secure within some enclosure, or herded not less than six miles away from any farm, corral, shed, or other established headquarters where sheep are kept or being herded. And all flocks of sheep affected with the "scab," or other contagious disease, shall be debarred from traveling upon the public highway in the neighborhood of any established headquarters without the owner, agent or shepherd in charge, first giving at least six hours' notice to the owner, agent or shepherd in charge of sheep at such headquarters that he will, at a time specified, pass along such highway with his band of sheep. And such band of sheep shall not be allowed to stop and graze on or adjacent to the highway within six miles of such established headquarters; but they shall be allowed to stop and graze a distance of not more than one-half mile from any public ferry, while engaged in crossing any stream or river: *Provided*, That any person or persons now or hereafter owning sheep affected with the "scab" or other contagious disease, and having established headquarters prior to the passage of this act for the same, shall be entitled to range such sheep upon the public domain a distance of six miles in any direction from such established headquarters, and shall not be subjected to the penalties prescribed in this bill: *Provided, further*, that all persons hereafter coming into the territory of Montana, with diseased sheep, and establishing headquarters six miles from any known

Regulations as to sheep with contagious disease.

headquarters, shall enjoy all the rights and privileges guaranteed to prior locators on any of the unclaimed lands within the territory of Montana.

Penalty if owner of diseased sheep neglect to remove, etc.

Sec. 2. If any owner of such diseased sheep shall neglect or refuse to immediately remove them to some secure enclosure, or herd them away from such other sheep, as above provided, he shall be liable to be arrested, and upon conviction before a court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, and shall be liable in full for damages to all parties so injured by such diseased sheep, after due notice of their diseased condition shall have been served upon himself, agent or shepherd in charge of the same.

Penalty if owner of diseased sheep drive same on highway, without notice, etc.

Sec. 3. If any owner of sheep affected with the "scab," or other contagious disease, shall knowingly cause or permit them to be driven upon any range within six miles of any established headquarters where sheep are kept or being herded, without having previously given the notice required by section 1 of this act, he shall be liable in full for damages to all parties so injured by such diseased sheep, without any previous notice having been served upon himself, agent or shepherd in charge of the same, relative to the diseased condition of his sheep.

Unlawful for horse, cow, etc., with contagious disease, to run at large.

Sec. 4. It shall be unlawful for the owner or owners, or for any person or persons having in charge any horse, mule, ass, or horned cattle affected with any contagious disease, to allow said diseased animal or animals to run on the public range. All animals so affected with contagious disease shall be at once removed by the owner or owners thereof, or the person or persons in charge of the same, from the public range to some secure inside enclosure, where contact with other animals by reaching over or through the fence of said enclosure will be im-

Same to be carefully herded, or kept in enclosure.

possible, or shall be strictly herded six miles away from any farm, or from any other stock running at large or being herded. Every person who shall knowingly neglect or refuse to remove, or so enclose, or herd away, from farms or other stock, such diseased animals affected with contagious disease, shall be liable to be arrested, and on conviction before any court of competent jurisdiction, shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, and shall also be liable for damages to the party or parties injured by such diseased animals running at large, after having received notice of their diseased condition: *Provided*, That this act shall not be construed so as to prevent owners of diseased animals from traveling over the main thoroughfares that pass through narrow canons.

Person injured by diseased animal, by neglect of the owner thereof, to have recourse for damages.

Permission given the owner to travel on the highway.

Sec. 5. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

#### DOWER.

AN ACT concerning dower.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. A widow shall be endowed of the third part of all lands whereof her husband was seized of an estate of inheritance at any time during the marriage, unless the same shall have been relinquished in legal form. Equitable estates shall be subject to the widow's dower, and all real estate of every description, contracted for by the husband during his lifetime, the title to which may be completed after his decease.

Widow endowed of one-third of all real estate of which husband was seized at law, or in equity, or contracted for.



Lands mortgaged before marriage, subject to dower—exception.

Sec. 2. Where a person seized of an estate of inheritance in land shall have executed a mortgage of such estate before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged, as against every person except the mortgagee and those claiming under him.

Dower subject to purchase money.

Sec. 3. When a husband shall purchase lands during coverture, and shall mortgage such lands to secure the payment of the purchase money thereof, his widow shall not be entitled to dower out of such lands as against the mortgagee, or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to dower as against all other persons.

Right of widow to one-third of surplus of lands sold under mortgage, after death of husband.

Sec. 4. When, in the cases specified in the two preceding sections, the mortgagee, or those claiming under him, shall, after the death of such husband, cause the land mortgaged to be sold, either under a power contained in the mortgages, or by virtue of a judgment or a decree of a court, and any surplus shall remain after the payment of the moneys due on such mortgage, and the costs and charges of sale, such widow shall be entitled to the interest or income of one-third part of such surplus for life as her dower.

Dower not to attach to lands mortgaged husband, unless he acquire title absolute.

Sec. 5. A widow shall not be endowed of lands conveyed to her husband by way of mortgage, unless he shall have acquired an absolute estate during the marriage.

Widow may elect dower to take under provisions of will.

Sec. 6. Every devise of land or any estate therein, by will, shall bar her dower in lands, or of her share in personal estate, unless otherwise expressed in the will; but she may elect whether she will take such devise or bequest, or whether she will renounce the benefit of such devise or bequest, and take her dower in the lands and her share in the personal estate.

Sec. 7. When a woman shall be entitled to an

election under this act, she shall be deemed to have taken such devise, unless, within one year after the authentication or probate of the will, she shall deliver or transmit to the court of probate of the proper county, a written renunciation, which may be in the following form, to-wit: "I, A B, widow of C D, late of the county of —, territory of Montana, do hereby renounce and quit all claims to the benefit of any bequest or devise made to me by the late will and testament of my said deceased husband, which has been exhibited and proved according to law (or otherwise, as the case may be), and I do elect to take in lieu thereof my dower, or legal share of the estate of my said husband;" which said letter of renunciation shall be filed in the office of the probate judge, and shall operate as a complete bar against any claim which such widow may afterwards set up to any provision which may have been thus made for her in the will of any testator, in lieu of dower; and by thus renouncing all claims, as aforesaid, such widow shall thereupon be entitled to dower in the lands, or share in the personal estate of her husband.

Widow deemed to have taken devise unless she renounces same.

Form of renunciation.

Widow declining bequest, deprived of provisions of will.

Sec. 8. If a husband die, leaving a widow, but no children, nor descendants of children, such widow may, if she elect, have, in lieu of her dower in the estate of which her husband died seized, whether the same shall have been assigned or not, absolutely and in her own right, as if she were *sole*, one-half of all the real estate which shall remain after the payment of all just debts and claims against the deceased husband. *Provided*, That, in case dower in such estate shall have been already assigned, she shall make such new election within two months after being notified of the payment of such claims and debts.

Rights of widow where husband dies childless, or without descendants of children.

Sec. 9. If a husband seized of an estate of inheritance in lands, exchange it for other lands, his

**Rights of widow where lands are exchanged for other lands.** widow shall not have dower of both, but shall make her election as hereinbefore provided, to be endowed of the lands given, or of those taken in exchange. And if such election be not evinced by the commencement of the proceedings for the recovery and assignment of her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands taken in exchange.

**Dower to be assigned widow.**

Sec. 10. It shall be the duty of the heirs at law, or other person having the next estate of freehold, or inheritance, in any lands or estate of which the widow is entitled to dower, to lay off and assign such dower as soon as practicable after the death of the husband of such widow.

**Widow may sue for an assignment of dower if same not set off.**

Sec. 11. If such heirs or other person shall not within one month next after the decease of said husband, assign and set over to the widow of the deceased, to her satisfaction, her dower in and to all lands, tenements, and hereditaments, whereof by law she is or may be dowable, according to the true intendment of law, then such widow may sue for and recover the same in the manner hereinafter prescribed against such heir or other person having the next immediate estate of freehold or inheritance, or tenant, in possession, or other person or persons claiming rights or possession in said estate.

**How widow may sue for dower.**

Sec. 12. Every widow claiming dower may file her petition in the district court of the proper county, against the parties aforesaid, stating their names, if known, setting forth the nature of her claim and particularly specifying the lands, tenements, and hereditaments in which she claims dower and praying that the same may be allowed to her; whereupon the clerk shall issue a summons as in other cases, and all subsequent proceedings shall be in accordance with the provisions of the civil practice act, except as hereinafter provided.

Sec. 13. Where the right of the widow to dower shall be contested, the court shall thereupon proceed to try the case, or direct an issue for that purpose, as the circumstances of the case may require.

Trial in case the right to dower be contested.

Sec. 14. When any of the parties defendant are minors and under age and without guardians, the court shall appoint guardians *ad litem* for such minors.

Guardian appointed to minors to suit.

Sec. 15. When the court adjudges that the widow shall recover dower, it shall be so entered of record, together with a description of the land out of which she is to be endowed; and the court shall thereupon appoint three commissioners not connected with any of the parties by consanguinity or affinity, and entirely disinterested, each of whom shall take the following oath, to be administered by the court or some one authorized to administer oaths: "I do solemnly swear that I will fairly and impartially allot and set off to A B, widow of C D, her dower out of lands and tenements described in the order of the court for that purpose, if the same can be made consistent with the interest of the estate, according to the best of my judgment. So help me God."

If judgment for widow same entered for record.

Appointment and oath of commissioners to set off dower.

Sec. 16. The commissioners, after being so sworn, shall as soon as may be, set off the dower by metes and bounds, attending to the commands of such order and according to the quantity and quality of all the lands, tenements, and hereditaments described in said order, and make return of their doings, with an amount of their charges and expenses in writing, to the court, and the same being accepted and recorded, and an attested copy thereof recorded in the office of the register of deeds of the county where the lands are situated, shall remain fixed and certain, unless such confirmation is set aside and reversed on appeal, and one-half of the costs of such proceedings shall be paid by the widow, and one-half by the adverse party.

Duty of commissioners in assigning dower.

Proceedings of report accepted.

If lands cannot be divided without injury to estate, the widow's interest therein to be assessed.

Judgment for assessment due widow.

Of widow's right to dower in lands alienated.

Ante-nuptial settlement, when a bar to dower.

Assent of woman to the marriage settlement.

When dower may be assigned anew.

Woman having dower not to suffer waste.

Sec. 17. If the commissioners aforesaid shall report that the lands or other estate is not susceptible of division without great injury thereto, a jury shall be empanelled to inquire of the yearly value of the widow's dower therein, and shall assess the same accordingly; the court shall thereupon render a judgment that there be paid to such widow as an allowance in lieu of dower, on a day therein named, the sum so assessed, as the yearly value of her dower, and the like sum on the same day in every year thereafter during her natural life.

Sec. 18. When a widow is entitled to dower out of any lands aliened by her husband in his life time, and such lands have been enhanced in value after the alienation, such lands shall be estimated in setting out the widow's dower according to their value at the time when they were so aliened.

Sec. 19. A woman may be barred of her dower in all the lands of her husband by a jointure settled on her with her assent before the marriage: *Provided*, Such jointure consists of a freehold estate in lands for the life of the wife at least, to take effect in possession or profits immediate on the death of the husband.

Sec. 20. Such assent shall be expressed if the woman is of full age by her becoming a party to the conveyance by which it is settled; and if she is under age, by her joining with her father or guardian in such conveyance.

Sec. 21. If a woman is lawfully evicted of lands assigned to her as a dower or settled upon the jointure, or is deprived of the provisions made for her by will or otherwise, in lieu of dower, she may be endowed anew in like manner as if such assignment, jointure or other provision had not been made.

Sec. 22. No woman endowed of any lands shall commit or suffer waste on the same, but she shall maintain the houses and tenements with the fences

and appurtenances in good repair, and shall be liable to the person having the next immediate estate of inheritance therein for all damages occasioned by any waste committed or suffered by her.

Sec. 23. Whenever in an action brought for the purpose, the widow recovers dower in lands of which her husband died seized, she shall also recover damages for the withholding of such dower; such damages shall be one-third part of the annual value of the mesne profits of the lands in which she so recovers her dower, to be estimated in an action against the heirs of her husband from the time of his death; and in actions against other persons from the time of her demanding dower of such persons, but such damages shall not be estimated for the use of any permanent improvements made after the death of her husband, by his heirs, or any other person claiming title to any lands.

Sec. 24. In all cases where the report of the commissioners assigning dower shall be approved, the court shall forthwith cause the widow to have possession by a writ directed to the sheriff for that purpose.

#### ESTATES BY THE COURTESY.

Sec. 25. When any man and his wife are seized in her right, and when a married woman is seized to her sole and separate use free from the control of her husband of any estate of inheritance in lands, the husband shall, on the death of his wife, hold the lands for his life as a tenant thereof by the courtesy: *Provided*, That if the wife at her death leaves issue by any former husband to whom the estate might descend, such issue shall take the same discharged from the right of the surviving husband to hold the same as tenant by the courtesy.

Approved February 11, 1876.

## ELECTIONS.

## ELECTIONS.

AN ACT to provide for biennial elections in the Territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Qualification of electors.

Sec. 1. That all male citizens of the United States above the age of twenty-one years, and all male persons of the same age who shall have declared their intention of becoming citizens, and who, under existing laws of the United States, may ultimately become citizens thereof, shall be deemed electors of this territory, and be entitled to vote for delegate to congress, and for territorial, district, county and precinct officers: *Provided*, They shall have resided in the territory three months, and in the county where they may offer to vote, thirty days next preceding the day of election.

What class disqualified.

Sec. 2. No person under guardianship *non compos mentis*, or insane, nor any person convicted of treason, felony, or bribery, in this territory or any other territory or state in the Union, unless restored to civil rights, shall be permitted to vote at any election.

Time of holding general elections.

Sec. 3. A general election shall be held in the several counties, townships or precincts, in this territory, on the first Tuesday after the first Monday in November, 1876, and every two years thereafter, at which election shall be chosen all such officers as are by law required to be elected.

Eligibility of delegate to congress and members of the legislature.

Sec. 4. No person shall be eligible to the office of delegate to congress, member of the council or house of representatives, unless he has been a resident of the territory for one year.

Appointment of judges of election.

Sec. 5. It shall be the duty of the commissioners of the several counties at their regular session immediately preceding said general election, to appoint three discreet and capable persons possessing

the qualifications of electors, to act as judges of election in each township or precinct; and said board shall designate one or more of said judges whose duty it shall be to post up, or cause to be posted up, in each precinct or township, notices of election, in the manner hereinafter provided. Said board of commissioners shall also set off, and establish at said meeting, townships or precincts when the same may be necessary. And the clerk of said board shall make out and forward by mail, immediately after the appointment of said judges, a notice <sup>Judges, how notified.</sup> thereof in writing directed to each of said judges so appointed. In case there shall be no post office in any one or more of the townships or precincts, in any county, then in that event the clerk shall forward notices of such appointment, by mail, to the post office nearest such precinct or township, directed to the judges, as aforesaid. If in any of the townships or precincts, any of said judges refuse or neglect to serve, the voters of such township or precinct may elect a judge or judges to fill vacancies on the morning of the election, to serve at such election.

Sec. 6. The said judges shall choose two persons, <sup>Appointment of clerks, term of office of judges.</sup> having the same qualifications with themselves, to act as clerks of the election. The said judges shall be and continue judges of all elections of civil officers to be held in their respective townships, until other judges shall be appointed, as hereinbefore directed; and the said clerks of election may continue to act as such during the pleasure of the judges of election, and the county commissioners shall, from time to time, fill such vacancies which may occur in the offices of judges of election in any township within their respective counties.

Sec. 7. The clerks of the several boards of county commissioners shall, at least thirty days before any general election, make out and forward by <sup>Notices of election.</sup>



mail to such judge or judges as shall be designated by the county commissioners, three written notices for each township or precinct, said notices to be as near as circumstances will admit, as follows:

Notice is hereby given that on the first Tuesday after the first Monday of November, at the house of \_\_\_\_\_, in the county of \_\_\_\_\_, an election will be held for delegate to congress, members of the legislative assembly, county, township and precinct officers (naming the offices to be filled), which election will be open at 8 o'clock in the morning and continue open until 6 o'clock in the afternoon of the same day.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18  
(as the case may be.)

Signed, A B, clerk of the board of county commissioners.

Posting of notices.

Sec. 8. The judge or judges aforesaid to whom such notices shall be directed as provided in section 7 of this act, shall cause to be put up in three of the most public places in each township or precinct the notices of election in such township or precinct, at least ten days previous to the time of holding any general election, and in cases where townships or precincts may be set off by leave as election precincts, said notices shall be posted as follows: one at the house where the election is authorized to be held, and the others at the two most public and suitable places in the township or precinct.

Sec. 9. Previous to votes being taken, the judges and clerks of election shall take and subscribe the following oath:

Oath of election officers.

I, A B, do solemnly swear or affirm, that I will perform the duties of judge of the election (or clerk, as the case may be) according to law and the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse, in conducting the same.

Sec. 10. In case there shall be no judges or justices of the peace present at the opening of the election, or in case such judge or justice of the peace shall be appointed judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered, to administer the oath to each other, and to the clerks of the election, and the person administering the oath shall cause an entry thereof to be made, subscribed by him, and prefixed to the poll-book.

Sec. 11. At all elections to be held under this act, the polls shall be opened at eight o'clock in the forenoon, and continue open until six o'clock in the afternoon of the same day, at which time the polls shall be closed; and at the opening of the polls one of the clerks, under the direction of the judges, shall make proclamation of the same, and thirty minutes before the closing of the polls proclamation shall be made in like manner, and the polls shall be closed in a half hour; but the board may, in their discretion, adjourn the polls at twelve o'clock at noon for one hour, prolamation of the same being made.

Sec. 12. Every elector shall deliver, in full view of one of the judges of election, a single ballot or piece of paper, on which shall be written or printed the names of the persons voted for, with a pertinent designation of the office which he or they may be intended to fill. Said ballots may be open or folded, as the voter may choose.

Sec. 18. The judges to whom any ticket may be delivered shall, upon the receipt thereof, pronounce, with an audible voice, the name of the elector, and if no objections be made to him, and the judges shall be satisfied that the elector is legally entitled to vote, he shall immediately put the ballot in the box, without inspecting the name thereon. The clerk of the election shall enter the name of the elector and number in the poll-book.

Place where  
elector may  
vote.

Sec. 14. It shall be lawful for any elector to vote for delegate to congress at any place of holding elections in this territory, for members of the legislative assembly, and all other officers, at any place for holding elections within the particular limits for which such member of the legislative assembly and such other officers are to be elected: *Provided*, That an elector, qualified to vote for part and not all of the officers to be chosen at any election, shall vote an open ticket, and the judges may determine the legality of such vote.

Challenge of  
voter. Duty of  
officers.

Sec. 15. If any person offering to vote shall be challenged as unqualified by any judge or clerk of the election, or any other person entitled to vote at the same poll—and either judge may challenge any person offering to vote whom he shall know or suspect not to be qualified,—the judges shall declare to the person so challenged the qualifications of an elector; if such person shall then declare himself duly qualified, and the challenge be not withdrawn, one of the judges shall then tender him the following oath: You do solemnly swear (or affirm, as the case may be) that you are qualified, according to the law regulating elections in this territory, to vote for the officer (or officers, as the case may be) for whom you now propose to vote. And the clerks shall enter the names of all persons on the poll lists who are challenged and take such oath, and shall enter opposite their names the word sworn, in brackets, and such records shall be presumptive evidence of such vote.

Ballot-box.

Sec. 16. There shall be provided and kept by the judges of each election precinct (at the expense of the county) a suitable ballot-box, with a lock and key.

Ballot-box, how  
kept and exam-  
ined.

Sec. 17. There shall be an opening in the lid of such box of no larger size than shall be sufficient to admit a single folded ballot. Before opening the

polls the ballot box shall be carefully examined by the judges of election that nothing shall remain therein; it shall then be locked and the key thereof delivered to one of the judges, to be designated by the board, and shall not be opened during the election, except in the manner and for the purpose hereinafter mentioned.

Sec. 18. Upon the adjournment of the polls the clerks shall, in the presence of the judges, compare <sup>Comparing poll lists.</sup> their respective poll lists, compute and set down the number of votes, and correct all mistakes that may be discovered, according to the decision of the board, until such poll lists shall be made in all respects to correspond.

Sec. 19. The ballot box shall be opened and the poll-books placed therein, and such box shall then be locked, and a covering with a seal placed on the lid of such box so as to entirely cover the same, and the key delivered to one of the judges and the box to another, to be designated by the board. <sup>Poll-book placed in ballot box.</sup>

Sec. 20. The judge having the key shall keep it in <sup>Care of box and key.</sup> his own possession, and deliver it again to the board at the next opening of the polls; and the person having the care of the box shall carefully keep it without opening it or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll-books taken out, and the box again locked.

Sec. 21. As soon as the polls of the election shall be finally closed, the judges shall immediately proceed to canvass the vote given at such election, and the canvass shall be public, and shall continue until completed. <sup>When canvass to begin, same to be public.</sup>

Sec. 22. The canvass shall commence by a comparison of the poll lists from the commencement, <sup>Manner of canvassing.</sup> and the correction of any mistakes that may be found

therein, until they shall be found to agree; the box shall then be opened and the ballots found therein counted by the judges, unopened, except to ascertain whether each ballot is single; and if two or more shall be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballot is completed, and if, on a comparison of the count with the poll lists and the appearance of such ballots, a majority of the judges shall be of the opinion that the ballots thus told together were voted by one elector, they shall be rejected.

Proceeding if  
ballots exceed  
the number of  
votes cast.

Sec. 23. If the ballots in the box should be found to exceed in number the whole number of votes in the poll lists, they shall be placed in the box (after being purged after the manner above stated) and one of the judges shall publicly draw out and destroy therefrom so many ballots unopened as shall be equal to such excess.

Manner and  
form of declar-  
ing result of the  
election.

Sec. 24. The ballots and the poll lists agreeing, or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll-books the names of every person voted for, and, at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, such entry to be made, as near as circumstances will admit, in the following form, to-wit:

At an election held at the house of A B, in the township or precinct of —, in the county of —, and the territory of Montana, on the — day of —, A. D. 18—, the following named persons received the number of votes annexed to their respective names for the following described offices, to-wit:

A B had — votes for delegate to congress.

J D had ——— votes for member of the legislative council.

R L had ——— votes for member of the house of representatives.

(And in like manner for any other person voted for.)

Certified by us.

Attest:

A B	} Clerks of Election.	M N,	} Judges of Election.
and		O P,	
C D,		Q R,	

Sec. 25. The judges of election shall then enclose and seal one of the poll-books, under cover, directed to the clerk of the board of county commissioners of the county in which such election was held, and the packet thus sealed shall, within three days from the closing of the polls, be conveyed by one of the judges or clerks of election, to be determined by lot, to the post office nearest the house in which said election for such precinct was held, and register and mail the same to the clerk of the board of county commissioners, and the other poll-books, together with the ballot box, shall be deposited with one of the judges of election, to be determined by lot, if not otherwise agreed upon, and the said poll-book shall be open to the inspection of any elector at any time thereafter who may desire to examine the same.

Return of one of the poll-books to the clerk of the county commissioners.

Sec. 26. If any judge or clerk, after being selected by the judges of election to convey the poll-books of such election to the post office nearest the house in which said election was held, and mail the same, as provided for in section 25 of this act, shall fail, refuse or neglect to convey and mail the said poll-books, safe with seal unbroken, he shall for every such offense, when convicted thereof, pay the sum of five hundred dollars, and be imprisoned in the county jail for a period not exceeding three years, said fine to be recovered in a civil action in the dis-

Penalty for neglecting to return poll-book.

trict court in the name of the county commissioners.

Canvass of the  
votes cast in the  
county.

Sec. 27. After the fifteenth day after the close of any election held under the provisions of this act, or sooner if all the returns shall be received, the chairman of the board of county commissioners shall, taking to his assistance the probate judge and a justice of the peace of the county, or any county officer, proceed to open the returns and make abstracts of the votes. Such abstracts of votes for delegates to congress shall be on one sheet. The abstract of votes for members of the legislative assembly shall be on another sheet, and the abstracts of votes for territorial and district officers shall be on another sheet, and the abstract of votes for county and township officers shall be on another sheet. And it shall be the duty of the clerk of said board of county commissioners immediately to make up a certificate of election to each of the persons having the highest number of votes for members of the legislative assembly, county and township officers, respectively, and to deliver such certificates to the persons entitled to them, upon their making application to the clerk at his office: *Provided*, that when a tie shall exist between two or more persons for any district or county office, the clerk of the board of county commissioners shall immediately give notice of another election, giving at least ten days notice. And it shall be the duty of the clerk of the board of county commissioners of such county, on the receipt of the returns of any general or special election, to make out his certificate, stating therein the compensation to which the judges and clerks of the election shall be entitled for their services, and lay the same before the county commissioners at their next session, and the board of commissioners shall order the compensation aforesaid to be paid out of the county treasury.

Duty of clerk  
in case of a tie.

Sec. 28. The clerk of the board of county commissioners, immediately after making out the abstract of votes given in his county, shall make a copy of each of said abstracts, and transmit the same by mail as a registered package to the auditor of the territory at the seat of government, and it shall be the duty of the United States marshal and treasurer of the territory in the presence of the governor to proceed within thirty days after the election, and sooner if the returns be received, to canvass the votes given for delegates to congress: *Provided*, that in case the United States marshal and treasurer can not agree as to the number of votes that two or more persons are entitled to for delegate to congress, then in that event the governor shall decide who has the highest number of votes, and shall issue a certificate of election to such person under his hand and the seal of the territory, countersigned by the secretary. In case there shall be no choice by reason of two or more persons having an equal and highest number of votes, then the governor shall by proclamation order a new election.

Territorial  
board of can-  
vassers.

In case of dis-  
agreement be-  
tween the mar-  
shal and treas-  
urer.

Sec. 29. If the returns of the election of any county in this territory shall not be received at the office of the auditor of the territory within thirty days after the election, the said auditor shall forthwith send a messenger to the clerk of the county commissioners, whose duty it shall be to furnish the said messenger with a copy of such returns, and the messenger shall be paid out of the county treasury of said county the sum of twenty cents per mile for each mile he shall necessarily travel in going to and returning from said county, and if any officer or officers, whose duty it is to forward returns of any election to the board of county commissioners, auditor or other officer of the township, county, district, or territory, shall omit, neglect or refuse to perform such duty as is by law required, he shall be liable

Duty of auditor  
when returns  
not received.



to pay, in an action brought therefor, in any proper court, the expenses of sending for and procuring such returns or poll-books as he is by law required to forward, and he shall be entitled to no exemption whatever on such judgment, and he or they shall moreover be deemed guilty of a misdemeanor, and being thereof convicted, shall be fined not less than one hundred nor more than five hundred dollars, and shall be imprisoned not less than one day nor more than six months in the county jail, and it is hereby made the duty of the canvassing board to send for and procure such returns before canvassing the votes if the same can be procured.

Vacancies, how filled.

Sec. 30. Any person who shall receive a certificate of his election shall be at liberty to resign such office though he may not have entered upon the duties thereof, or taken the requisite oath of office. And when any vacancy shall happen in the office of member of council or house or representatives by death, resignation or otherwise, and a session of the legislature is to take place before the next regular election, the governor shall issue a writ of election directed to the clerk or clerks of the county or counties in which such vacancy shall happen, commanding him to notify the judges in his county or counties to hold a special election to fill such vacancy or vacancies at a time appointed by the governor.

Canvass of votes for district officers.

Sec. 31. Where two or more counties are united in a council or representative district, or for the election of any officer, the clerk of the board of the county commissioners of the county or counties last established shall, on the twentieth day after the election, unless a previous time is agreed upon, attend at the office of the clerk of the board of the senior county, and together they shall canvass the votes according to law, and the certificate of election shall be signed by such clerk and be delivered to the proper person

at the office of the clerk of the senior county, and, for the purpose of this act, the county first created shall be deemed the senior county, and when all the counties were created by the same act, the first named therein shall be deemed the senior county.

Sec. 32. There shall be allowed out of the county treasury of each county to the several judges and clerks of election, when engaged in any election, Pay of judges and clerks of election. three dollars per diem; to the person appointed to post up notices of election, and to the judge or clerk conveying poll books to the post office and mailing the same, and to the clerks of the board of county commissioners for attending at another county to canvass votes, the sum of fifteen cents per mile for each mile necessarily traveled in going and returning, to be paid out of the county treasury.

Sec. 33. If any judge or clerk of election, or any other person in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this act, he shall pay to the county a sum not less than fifty or more than one thousand dollars, and be imprisoned in the county jail until such fine is paid, the same to be recovered by civil action in the name of the county commissioners of the proper county, for the use of the common schools of said county. Penalty for corruptly violating this act.

Sec. 34. The term of office of all district, county and township officers elected under the provisions of this act, shall begin on the third Monday in December next ensuing after the election, and the term of office of all officers elected at the general election in August, 1874, shall hold and extend until the third Monday in December next ensuing the expiration of their present term of office, and all county, district and township officers elected at the August election in the year 1875, shall hold their respective offices until the third Monday in December, 1878: *Provided*, That the term of office Term of office of officers elected under this act.

of the county treasurer shall begin on the first Monday in March, next ensuing their election, and the county commissioners of the several counties are hereby authorized and empowered to fill any and all vacancies in said office, created by the expiration of the term of office of any incumbent, or from any other cause: *Provided*, That when any officer who by law is required to give bonds before entering upon, or when entering upon his said office, and whose term of office is hereby prolonged, shall, before entering upon that portion of his term hereby prolonged, give a new undertaking in the form and to be approved as is now provided by law.

Sec. 35. In all elections the person having the highest number of votes for any office shall be deemed to have been elected.

Who deemed  
elected.

Sec. 36. In counting the votes the judges of election shall disregard mis-spelling or abbreviation of the names of candidates for the offices, if it can be ascertained from such votes for whom they were intended.

Mis-spelling,  
&c., to be dis-  
regarded.

Sec. 37. All contests of county and township officers shall be tried in the proper county, and when an elector shall wish to contest such an election he shall file with the clerk of the board of county commissioners, within ten days after such person shall have been declared elected, a statement in writing, specifying the grounds of contest, verified by affidavit, and such clerk shall issue to the contestant a notice to appear at time and place specified in the notice, before the district court, which notice, with a copy of such statement, shall be delivered to the sheriff, who shall, within five days, serve the same on the contestor by delivering to him a copy of such notice and statement, or by leaving such copy at his usual place of residence. That in all contested election cases, or rights thereto existing, or which

may hereafter occur, when the said notice shall not have been served and given in compliance herewith, the same shall be a bar to any and all persons making such contests and to all actions and rights of action thereto. Of contested elections.

Sec. 38. The district judge at the time specified in the notice (and it shall appear by the sheriff's returns that notice has been duly served on the contestor), shall proceed to try such contest. Each party shall be entitled to subpoenas, and subpoenas *duces tecum*, as in ordinary cases in law, and the district court shall hear and determine in such manner as shall carry into effect the expressed will of a majority of the legal voters, as indicated by their votes for such office, not regarding technicalities or error in spelling the name of any candidate for such office, and the clerk of said court shall issue a certificate to the person declared to be elected by said court, which shall be presumptive evidence of the right of said person to hold such office, and he shall be entitled to enter upon and hold said office until such decision shall be reversed on appeal. Trial of contested election cases.

Sec. 39. Resignations may be made as follows: First, by all officers elected to the legislative assembly, to the governor of the territory. Second, by all township and county officers, to the county commissioners of their respective counties. Third, by all other officers holding office by appointment, to the body or officers that appointed them. Resignations.

Sec. 40. Every office shall become vacant on the happening of any of the following events before the expiration of the term of such office: First, ceasing to be an inhabitant of the territory, county or township for which he shall have been elected or appointed, or within which the duties of his office are to be discharged. Second, his conviction of any infamous crime, or of any offense involving the violation of his official oath. Third, his refusal or neg- When office deemed vacant.

lect to take the oath of office, or to execute his official bond, or deposit such oath or bond within the time prescribed by law.

Sec. 41. The governor shall also declare vacant the office of every official required by law to execute an official bond, when a judgment shall be obtained against such officer for a breach of the condition of such bond.

Filling of vacancies in the legislature.

Sec. 42. When a vacancy shall occur during a recess of the legislature, in any office which the legislature is authorized to fill by election, or which the governor, subject to confirmation of legislative council, is authorized to fill, the governor, unless it be otherwise specially provided, may appoint some suitable person to perform the duties of such office.

Appointment of county or township officers to fill vacancies.

Sec. 43. When at any time there shall be in any of the county or township offices no officer duly authorized to execute the duties thereof, some suitable person shall be appointed by the county commissioners to perform the duties of said office. *Provided*, that if there is no board of county commissioners in any county the governor may, on notice of such fact, create such board.

Person appointed to qualify.

Sec. 44. Every person so appointed, in pursuance of the last two preceding sections, shall, before proceeding to execute the duties assigned them, qualify in the same manner as required by law of the officers in whose place they shall be appointed, and they shall continue to exercise and perform the duties of the office to which they shall be appointed, until such vacancy shall be regularly supplied as provided by law.

County commissioners to provide poll books.

Sec. 45. That in addition to the duties already assigned them, it shall be the duty of the board of county commissioners of each county to cause to be provided for the several election precincts in each county, poll books, after the forms hereinafter prescribed.

Sec. 46. That it shall be the duty of the clerk of said board to forward by mail, as a registered package, to one of the judges of election so appointed, in each precinct, at least ten days prior to any general election, and five days prior to any special election, two copies of such blank poll books for the use of the judges of such township or precinct.

Clerk of county commissioners to forward poll-books to judges.

Sec. 47. The judge having the key shall keep it in his own possession, and deliver it again to the board at the next opening of the polls; and the person having care of the box shall carefully keep it without opening it or suffering it to be opened, or the seal thereof to be broken or removed, and shall publicly in that condition deliver it to the board of judges at the next opening of the polls, when the seal shall be broken, the box opened, the poll-books taken out, and the box again locked. That the judges having the custody of the key, box, and poll-books, who shall refuse or neglect to comply with the requirements of this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than five hundred dollars, nor more than ten thousand dollars, or imprisonment not less than three months, or more than one year, or by such fine and imprisonment as a court of competent jurisdiction may see fit to impose.

Ballot-box and key, how kept and delivered to election officers.

Sec. 48. Such poll-books and oaths shall be in the following form :

Form of poll-books and oath of election officers.

TERRITORY OF MONTANA, }  
 County of \_\_\_\_\_, } ss.

We, \_\_\_\_\_ and \_\_\_\_\_, do solemnly swear, that we will perform the duty of judges of the election, according to law, and to the best of our ability, and that we will studiously endeavor to prevent fraud, deceit, and abuse, in conducting the same, so help us God.

\_\_\_\_\_ }  
 \_\_\_\_\_ } Judges.

## ELECTIONS.

Subscribed and sworn to before me, ———, this  
 ——— day of ———, A. D. 18—.

TERRITORY OF MONTANA, } ss.  
 County of ———, }

We, ——— and ———, do solemnly swear, that  
 we will faithfully perform the duties of clerks of the  
 election, according to law, and to the best of our  
 ability, and that we will studiously endeavor to pre-  
 vent fraud, deceit, and abuse, in conducting the  
 same, so help us God.

————— } Clerks.  
 ————— }

Subscribed and sworn to before me, this —  
 day of —, 18—.

## POLL-BOOKS OF PRECINCT NO.—.

NO.	NAMES.	NO.	NAMES.

At an election held at ———, in precinct No. —,  
 in the county of ———, in the territory of Montana,  
 the following named persons received the number  
 of votes annexed to their respective names, for the  
 following offices, to-wit:

Certified to by us.

————— }  
 ————— } Judges.  
 ————— }  
 ————— }  
 ————— } Clerks.  
 ————— }

Sec. 49. No officer of this territory, nor of any county within this territory, shall establish a precinct within the limits of any county not fully organized, or at any Indian agency, or at any trading post in the Indian country, or on any Indian reservation whatever; and any county or territorial officer violating the provisions of this section shall be guilty of a misdemeanor and fined in a court of competent jurisdiction in a sum not less than five hundred dollars, or more than two thousand dollars.

Sec. 50. Any county or territorial officer, whose duty it is, under existing laws, to open returns and make abstracts of votes, who shall receive and count the returns from any pretended election precinct which may be established in contravention of the preceding section of this act, shall be guilty of felony, and be punished by fine not less than one thousand nor more than five thousand dollars, and be imprisoned in the territorial penitentiary not less than one nor more than five years.

Sec. 51. Any judge, clerk or county commissioner, who shall fail, refuse or neglect, to perform any of the duties imposed upon him by the provisions of this act, shall be fined in any sum not exceeding five hundred dollars, and imprisonment in the county jail for a period not exceeding three years, or both such fine and imprisonment, at the discretion of the court, unless, for good cause shown, both such fine and imprisonment may be remitted by the court.

Sec. 52. Any person guilty of stuffing any ballot box either by false bottoms or in any manner whatever before the votes are counted or while being counted, and any judge of an election who shall knowingly count or read off the votes falsely, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the territorial prison for each and every offense so convicted, for a term not less than one nor more than five years.

Election precincts not to be established in unorganized county or in Indian reservation.

Penalty for violating the preceding section.

Penalty for any judge, clerk or county commissioner violating this act.

Penalty for stuffing ballot box or falsely counting votes.



Penalty for unlawfully attempting or obtaining possession of any ballot box, ballot, poll-book, tally-list, etc.

Sec. 53. If any person or persons, at any election held by virtue of any law of this territory, shall, either by force, fraud, stealth, or otherwise, destroy, obtain, or attempt to obtain possession of any ballot box, or any ballot or ballots, therein deposited, or any poll-book, tally-list, or other articles kept and used by the judges and clerks in conducting such election, while the voting at such election is going on during the day of election, or either before or after the ballots have been taken out of the box and counted by the judges of election, shall be deemed guilty of a felony, and upon conviction thereof, be imprisoned in the territorial prison for each and every offense so convicted of, for a term of not less than one nor more than five years.

Penalties for voting or abetting another to vote under a false name.

Sec. 54. Any person who shall vote or attempt to vote in the name of any other person, other than his own, and any person who causes, aids, or abets any person so to vote or attempt to so vote, shall, upon conviction thereof, be punished for each offense by imprisonment in the territorial prison not less than one year nor more than five years.

Penalty for fraudulently voting.

Sec. 55. If any person not having the legal qualifications of a voter shall fraudulently vote, or shall fraudulently attempt to vote at any election, such person on conviction thereof, shall be punished by imprisonment in the territorial prison for a term not less than one nor more than five years.

Penalty, an elector voting more than once at any election, or knowingly voting more than one ballot.

Sec. 56. If any elector shall vote more than once at any election, or shall knowingly hand in two or more tickets folded together, or shall attempt to vote more than once at the same election, he shall, on conviction thereof, be punished by imprisonment in the territorial prison for a term not less than one year nor more than five years.

Penalty for threatening or menacing voter at or during election.

Sec. 57. If any person shall directly or indirectly use any threats, menace, or force, or any corrupt means or device at or previous to, or during any

election held pursuant to any election laws of this territory, towards any elector, to hinder or deter him from voting at such election, or shall attempt by any means whatever to awe, restrain, hinder, or disturb any elector in the free exercise of the right of suffrage, he shall, upon conviction thereof, be fined in any sum not less than fifty nor exceeding five hundred dollars.

Sec. 58. Any person wilfully, corruptly, or falsely swearing or affirming before the board of judges of election, or any member thereof, or the clerk, while in session or in holding an election, shall be deemed guilty of perjury, and on conviction shall be punished. If any member of any board of judges, or clerks, of election, or any other person in any manner concerned in conducting an election, shall wilfully and corruptly violate any of the provisions of this act, the penalty for which is not herein prescribed, or be guilty of any fraud, deceit, or abuse in the execution of the duties of his office, the penalty for which is not herein prescribed, he shall be punished for each and every offense whereof he shall be convicted, by imprisonment in the territorial prison for a term not less than one nor more than five years; or shall pay a fine of not less than fifty nor more than five hundred dollars, in the discretion of the court.

Penalty for  
false swearing  
at election.

Penalty for  
the violation of  
this act by any  
election officer.

Sec. 59. That all acts and parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed.

Acts repealed.

Sec. 60. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## ELECTIONS.

AN ACT to prevent the purchase and sale of votes.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That no person shall purchase, or attempt to purchase, either with money or any other valuable thing, the vote of any elector of the territory of Montana.

Votes not to be sold or purchased.

Sec. 2. That no elector of the territory of Montana shall sell, or attempt to sell, either for money or any other valuable thing, his vote to any person whatever.

Fixes the only purposes for which candidates may contribute money for electioneering.

Sec. 3. That no person who shall hereafter be a candidate for any office whatever in the territory of Montana, shall pay or contribute, either directly or indirectly, any money or other valuable thing, or knowingly allow it to be done by others for him, either for the nomination, election, or appointment thereto, except for necessary expenses, as follows, to-wit: First, for printing and traveling expenses. Second, for the dissemination of information to the public. Third, for political meetings, demonstrations and conventions. The foregoing expenses may be incurred either in person or through other individuals or committees of organizations duly constituted for the purpose, but nothing contained in this act shall be so construed as to authorize the payment of money or other valuable thing for the vote or influence of any elector of this territory, either directly or indirectly, at any election or nominating convention, or for any corrupt purpose whatever, incident to an election; and all officers hereafter elected or appointed, shall, before entering upon the duties of their respective offices, take and subscribe the following oath :

Oath of officers.

" I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the

United States, and the organic act of the territory of Montana, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this territory, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law."

The foregoing oath shall be administered to the members of the council and house of representatives in the hall of their respective houses, by a judge of the supreme court, and filed by him in the office of the secretary of the territory.

In the case of all other territorial officers, this oath shall be administered by the governor, and filed in the office of the secretary of the territory. In the case of all other officers this oath shall be administered by some person authorized by law to administer oaths, and shall be filed in the office of the clerk of the county in which said officer was elected.

Sec. 4. Every person violating either section one or two of this act, or both, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than one hundred dollars, nor more than five hundred dollars, and to imprisonment in the penitentiary for not less than three months, nor more than one year, or both or either, at the discretion of the court.

Sec. 5. Any person refusing to take the oath prescribed in section three of this act, shall forfeit his office; and any person who shall be convicted

of having sworn or affirmed falsely, or of having violated said oath or affirmation, shall be guilty of perjury, and be punishable therefor as provided by law, and be forever disqualified from holding any office of trust or profit within this territory.

Duty of district attorney.

Sec. 6. That it is hereby made the duty of the district attorney, for that district in which an offense against any of the provisions of this act may have been committed, to bring an action in the name of the territory of Montana, against any person or persons so offending.

Repealing clause.

Sec. 7. All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved February 8, 1876.

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#### ELECTIONS.

AN ACT providing for the election of county assessors.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

One assessor to be elected in each county.

Sec. 1. There shall be elected in each of the counties of this territory at the next general election, and biennially thereafter, one assessor, who shall hold his office for the term of two years and until his successor is elected and qualified: *Provided*, That all assessors elected at the first general election after the passage of this act, shall not take office until after the expiration of the term of the present incumbents in their respective counties.

Assessor to give bond.

Sec. 2. Each county assessor shall, before entering upon the duties of his office, give a bond in a sum not less than two thousand dollars, or more, if the county commissioners so elect, with two or more

sufficient sureties, conditioned for the faithful performance of his duties according to law and to the satisfaction of the county commissioners, and shall take and subscribe an oath of office, which shall be endorsed on such bond. The bond must be approved by the commissioners, and shall be deposited with the county clerk. Said assessor shall give the bond and take the oath of office herein required, on or before the second Monday after his election, and if the county clerk receive no notice of the qualification of such assessor on or before the said second Monday after the election, the office shall be declared vacant; or if there be a failure to elect by the people, or if there shall be at any time, or from any cause, a vacancy in the office of assessor, or if said assessor having qualified shall fail to proceed to the discharge of the duties of his office before the first day of February in each year, the county commissioners shall forthwith appoint one suitable person, resident of the county, to discharge the duties of county assessor, who shall thereupon take the necessary oath of office, give the same bond, perform the same duties, be entitled to the same fees, and subject to the same liabilities as in case of assessors elected by the people.

Bond approved by commissioners and deposited with clerk.

If assessor do not qualify, office deemed vacant, when.

Assessor failing to discharge his duties, commissioners may appoint suitable person in his stead.

Sec. 3. Chapter 86 of the codified statutes, "An Act to divide the counties of this territory into revenue districts, and provide for the election of officers therein," and all acts and parts of acts conflicting with the provisions of this act, be, and the same are hereby, repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 9, 1876.

## ELECTION — RAILROADS.

WHEREAS, There has passed the legislative assembly of the territory of Montana "An Act encouraging the Northern Pacific railroad in the territory of Montana," as also "An Act to enable the people of the territory of Montana to aid in the construction of a railroad;" and

WHEREAS, The proposition to aid in the construction of each of said railroads are provided in each of said enactments to be submitted to a vote of the people of said territory. Therefore,

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That at the election provided for in each of said enactments, to-wit: "An Act encouraging the Northern Pacific railroad in the territory of Montana," and "An Act to enable the people of the territory of Montana to aid in the construction of a railroad," there shall be provided at each voting precinct in the territory of Montana at the election to be held at the times provided in each of said enactments, two separate ballot boxes, in each of which each elector who shall be entitled to vote at said election and shall vote thereat, shall have the right to cast one ballot in each of said ballot boxes, so provided as aforesaid. One of the said boxes shall contain all the votes cast at said election under and in pursuance of the provisions of "An Act encouraging the Northern Pacific railroad in the territory of Montana," and the other of said ballot boxes shall contain all the votes cast at said election under and in pursuance of the provisions of "An Act to enable the people of the territory of Montana to aid in the construction of a railroad," and the ballots so cast shall be kept separate and shall be canvassed by the judges of election in the several

voting precincts separately, and upon separate tally-lists; and the returns made by the judges of election at the precincts aforesaid shall be made upon separate papers, and kept and returned separately and certified to separately as provided by law, and shall be canvassed separately by the several boards of canvassers required by law to canvass the same in a manner provided therefor in the two several enactments hereinbefore referred to.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11th, 1876.

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#### FEEES.

AN ACT prescribing the fees of the clerks of the district courts in the several counties of the territory.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. The clerks of the district courts of the several judicial districts of this territory shall be entitled to receive for their services as such clerks the fees hereinafter prescribed, and none other: For a docket fee on the commencement of an action, to include the filing of all papers, all necessary register and journal entries, all indexes and entries of attorneys, two dollars and fifty cents. For filing transcript on appeal from probate or justice's court, and all accompanying papers, including all necessary register and journal entries relating thereto, and all indexes and entries of attorneys, two dollars. For filing and entering transcript of judgment from probate court or justice's court, and docketing and indexing the same, one dollar. For issuing each summons, writ of attachment, venire, or other writ not herein specially provided for, seventy-five cents. For

Fees of clerk of district court established.



issuing each subpoena, to include all the names mentioned in the preceipe therefor unless otherwise directed by the party requiring the same, for the first name, fifty cents; for each additional name, ten cents. For issuing each writ of injunction, *quo warranto* or *mandamus*, one dollar and fifty (cents). For issuing each warrant in a criminal action, each execution, writ of *habeas corpus*, *certiorari*, or *procedendo*, or *dedimus* to take depositions, one dollar. For each attachment for defaulting juror or witness, fifty cents. For each copy of a decree or order of sale, per folio of one hundred words, for each folio, twenty cents. For swearing and empanelling a jury, to include all necessary orders, or entries of record, or other services relating thereto, in a civil action, one dollar and fifty cents; in a criminal action, three dollars. For swearing and empanelling each grand jury, to include necessary orders, entries of record, and other services, relating thereto, one dollar and fifty cents. For swearing each witness, officer, or person other than a juror or grand juror, on the trial of a cause or other proceeding in court, and all orders and entries relating thereto, twenty-five cents. For entering each order, ruling or proceeding of court not herein otherwise specially provided for, to include all necessary entries and indices relating to the same: *Provided*, however, that all orders, entries, and proceedings, on the hearing or trial of a cause, coming under the same heading and relating to the same subject matter be charged for as one order, and not separately—for each folio of one hundred words, twenty cents. For rendering accounts of jurors and witnesses to the board of county commissioners, for each juror or witness, ten cents. For filing each pleading or other paper not provided for in the first three items of this fee bill, to include all necessary entries and indexes relating thereto, twenty cents. For taking

and approving each bond, seventy-five cents. For entering default, whether of one or more defendants: *Provided*, That but one entry of default shall be charged for in any case, one dollar. For entering each cause on both bar and judge's calendar at each term of court, twenty-five cents. For arraignment of each prisoner, fifty cents. For receiving and entering each verdict of a jury, fifty cents. For entering each final judgment, seventy-five cents. For copies of judgment and all necessary orders and rulings to be filed with judgment roll, for each folio of one hundred words, twenty cents. For making and certifying judgment roll, one dollar. For entering each decree, for each folio of one hundred words, twenty cents. For each docketing judgment or docketing deficiency on return of order of sale or execution unsatisfied, fifty cents. For taking affidavit to any instrument of writing, and affixing jurat thereto, except as herein otherwise provided, twenty-five cents. For certificate and seal, except as herein otherwise provided, one dollar. For copy of any pleading, paper or record, to be paid for by party demanding same, for each folio of one hundred words, twenty cents. For taking acknowledgment of conveyance or other instrument of writing, whether of one or more parties, one dollar. For taking and recording declaration of intention to become a citizen, with certified copy thereof, and including all necessary affidavits, filings, indexes, and entries, two dollars. For issuing final naturalization papers, including all necessary affidavits, filings, indexes and entries, three dollars. For making report in each case referred to clerk, one dollar and fifty cents. For making transcript on appeal to the supreme court, including all indexes, for each folio of one hundred words, twenty cents. For keeping accounts of jurors and witnesses, making and certifying affidavits to same,

for each juror or witness, thirty cents. For searching the files and records in his office, but in no case to be charged against parties or attorneys in any cause pending, twenty-five cents. For entering of record all indictments, recognizances, or other papers required by law to be recorded, and not in this act provided for, for each folio of one hundred words, twenty cents.

Fees above established to include all services.

Sec. 2. The fees above provided for in civil and criminal cases shall be held to include compensation to said clerks for all other services of every kind required of said clerks by law to be performed in the cases in which said fees are paid, and said clerks shall not demand or receive any fees for any services in such cases other than the fees in this act prescribed, but they shall perform all the duties required of them by law, without any other fees or compensation than that herein specifically mentioned.

Clerk demanding or receiving other fees than in this act given, or neglecting duty, guilty of misdemeanor.

Sec. 3. Any clerk of the district court demanding or receiving for his services any other or greater fees than those in this act specifically mentioned, or demanding or receiving fees as such clerk for any other services than those for which fees are in this act provided specifically, or refusing or neglecting to perform any services required of him by law, on payment of the fees for such services, or without pay, where no fee is in this act provided, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. And offenses under this act may be presented by indictment, and the district court of the proper county shall have jurisdiction thereof. And in addition to the above penalty, the said clerk shall be adjudged, upon motion filed in the district court of the proper county, to pay the party aggrieved any illegal fee or fees collected of him by said clerk.

Sec. 4. Except in criminal cases, and other cases Fees taxed as costs, and paid by party. expressly provided for by law, the above fees shall be paid by the party for whom the services are rendered. And said fees in civil cases shall be taxed as costs in the manner provided by law.

Sec. 5. All acts and parts of acts giving any fees Acts repealed. or compensation to clerks of district courts, other than in this act prescribed, and all acts and parts of acts in conflict with this act, are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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#### FEEs.

AN ACT requiring witness's and juror's fees to be paid into the county treasury.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That it shall be, and it is hereby made Witness and juror's fees paid into the county treasury. the duty of the respective clerks of the district courts, probate judges, and justices of the peace, sheriffs or other officers, to pay into the county treasury of their county all money by them received for witness and jury fees, and remaining unclaimed for three months after the receipt of the same.

Sec. 2. The said clerk, probate judge, or justice Statement of fees delivered to treasurer. of the peace, sheriff or other officer, shall, at the time of making such payment, deliver to the treasurer a statement of the case, the names of the witnesses or jurors, and the amount each one is entitled to receive. And such officer so paying said fees into the treasury, shall notify the clerk of the court, probate judge or magistrate having the custody of any judgment on which the same are paid, in writing, of the payment thereof; and such clerk,

probate judge or magistrate shall endorse the same as paid upon the judgment so in his charge.

Fees received  
by treasurer,  
how kept.

Sec. 3. The treasurer of said county shall keep the money thus received separate from the general fund of the county for one year, if not paid out to the person entitled to receive the same before said time, upon the certificate of the district clerk, probate judge, or justice of the peace, sheriff or other officer, as the case may be, after which the same shall be credited to the general county fund.

Receipts to be  
taken for  
money paid in-  
to the treasury,  
and receipts  
filed, &c.

Sec. 4. Any officer paying money into the county treasury under the provisions of this act shall take a duplicate receipt therefor, one of which he shall file in his office, and the other he shall file with the clerk of the board of county commissioners, who shall charge the amount thereof to the treasurer.

Penalty for not  
paying over  
fees as directed  
under this act.

Sec. 5. Any failure to pay over to the county treasurer, witness or jury fees, as contemplated by this act, shall subject the offender to a fine for each offense, of not less than one hundred dollars nor more than five hundred dollars, to be collected in any court having jurisdiction, and disposed of as other fines.

Acts repealed.

Sec. 6. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 7. This act to take affect and be in force from and after its passage.

Approved February 11th, 1876.

## FIREMEN.

## AN ACT concerning firemen.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That from and after the passage of this act no member of any organized fire company in the territory shall be exempt from serving as a juror or from the payment of a poll road tax, unless he can furnish the court, when called as a juror, or the collector of the county, when required to pay his taxes, a certificate from the secretary of the company of which he is a member that he is not in arrears of dues or fines to such fire company.

Fireman not exempt from jury duty or road tax if in arrears to his company.

Sec. 2. Any secretary of any fire company in the territory who shall issue such certificate to any member who has not paid up all dues and fines to the company of which he is a member, shall be deemed guilty of a misdemeanor, and shall, upon conviction be fined in any sum not exceeding fifty dollars.

Secretary of fire company not to issue certificate to fireman, unless arrears paid.

Sec. 3. This act shall be in force from and after its passage.

Approved February 11th, 1876.

## FIRE WARDENS.

AN ACT to provide for fire wardens in the territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That the county commissioners of every county in this territory shall, upon petition from ten residents of any unincorporated city, town or village in their respective counties, appoint a fire warden for said city, town or village, as the case may be, whose duty it shall be to examine all chimneys,

County commissioners to appoint fire-wardens, upon petition.

stoves, stove-pipes, ovens, furnaces, boilers, and appurtenances thereto belonging.

Duty of fire warden on complaint of citizen.

Sec. 2. When any chimney, stove, stove-pipe, oven, furnace, boiler or appurtenance thereto belonging, are defective, out of repair, or so placed in any building as to endanger it, or any other building by communicating fire thereto, the fire warden, on complaint of any citizen either orally or in writing, on examination or other satisfactory proof, shall give written notice to the owner or occupant of such building or premises and if he neglects for the space of three days to remove or repair the same effectually, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than one hundred dollars.

If owner, after notice, neglect to repair stove, &c., guilty of misdemeanor.

Fines collected under this act paid into school fund.

All fines collected under the provisions of this act shall be paid into the county treasury for the use and benefit of the school district in which the person fined shall reside, and it shall be the duty of the court imposing said fine to certify to the county treasurer the school district in which the person fined shall reside.

Approved February 2, 1876.

#### GAME.

AN ACT to protect game, fur-bearing animals, and fish in the territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Killing of large game unlawful during certain months of each year.

Sec. 1. That any person or persons who shall wilfully shoot or otherwise kill or cause to be killed any buffalo, moose, elk, black-tailed deer, white-tailed deer, mountain sheep, Rocky mountain goat, or antelope, between the first day of February and the tenth day of August, of each year, shall be

deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offence committed.

Penalty for violation.

Sec. 2. That any person or persons who shall wilfully shoot or otherwise kill or cause to be killed at any time, any of the animals mentioned in section one of this act, for the purpose of procuring the hide only and shall not make any use of the carcass thereof, for food, for himself or themselves, or for the purpose of selling the same to others for food, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars for each offence committed.

Killing animals mentioned in section 1, for their hides only, unlawful.

Penalty for violation.

Sec. 3. That any person or persons who shall trap, shoot or otherwise kill or cause to be killed any beaver, otter, martin, or fisher, between the first day of April, and the first day of October, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offense committed, and any person who shall, at any time, trap, shoot, or otherwise kill any beaver in any field, or in any other enclosure in this territory, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to the penalties above mentioned in this section; that nothing contained in this section shall prevent owners of land from catching or killing beaver on their own lands.

Killing or trapping fur-bearing animals unlawful during certain months.

Penalty for violation.

Sec. 4. That any person or persons who shall wilfully shoot or otherwise kill, or cause to be killed, any grouse, prairie-chicken, pheasant, fool-hen, partridge or quail, between the first day of March and the tenth day of August, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than

Killing game birds unlawful during certain months.

Penalty for violation.



fifty dollars, nor more than two hundred and fifty dollars for each offense committed.

Killing wild-geese or ducks, unlawful during certain months.

Sec. 5. That any person or persons who shall wilfully shoot, or otherwise kill or cause to be killed, any of the varieties of wild geese or ducks, which at any season of the year are to be found within the territory, between the 15th day of May and the 10th day of August, of each year, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars for each offense committed.

Penalty.

Destruction of singing birds unlawful.

Sec. 6. That for the next four years from May 1st, A. D. 1876, it shall be unlawful for any person or persons to wilfully kill or cause to be killed, or destroyed in any manner whatever, any robin, meadow-lark, thrush, goldfinch, flicker, or yellow-hammer, black-bird, oriole, snow-bird, or any other of the small birds commonly known as singing birds, within this territory, and upon conviction thereof, any person or persons so convicted shall be fined in any sum not less than five dollars nor more than twenty-five dollars for each offense committed.

Penalty.

Possession of dead birds, *prima facie* evidence of guilt.

Sec. 7. That the possession of the dead bodies, or any part thereof, of any animals or birds mentioned in this act, by any person or persons, shall be taken as *prima facie* evidence that such person or persons are guilty of killing the same.

Prescribes the lawful way of catching fish.

Sec. 8. That a fishing tackle consisting of a rod or pole, line and hook, or spear, shall be the only lawful way that fish can be taken in any of the streams of this territory; it shall, however, be lawful to use a seine in the Missouri and Jefferson rivers, and in the Beaver-Head, up to the Beaver-Head rock, and in North Boulder creek for ten miles above its mouth.

Sec. 9. That said hook shall not be baited with any drug or substance poisonous to any kind of fish. Bait for fish not to be poisoned.

Sec. 10. That it shall be unlawful for any person in the territory of Montana to make any dams or use any fish-traps or any similar means of catching fish, or to use any drug, poison, or giant-power, or explosive compound intending to catch, kill or destroy any species of fish. Unlawful to make dams or traps for catching fish.

Sec. 11. Any person or persons, company or corporations offending against sections eight, nine and ten of this act, or either of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars, for each offense committed. Penalty for violating sections 8, 9, and 10.

Sec. 12. Any person, or persons, stage or express company, or association of persons, who shall receive for transportation or carriage, or shall sell or offer for sale, fish that have been caught, taken or killed contrary to the provisions of this act, knowing, or having reason to believe, that such fish were so illegally caught, taken or killed, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars, nor more than two hundred and fifty dollars for each lot or shipment of fish so transported or carried. Penalty for stage companies or other common carriers transporting fish unlawfully caught.

Sec. 13. That all fines mentioned in any section of this act, shall be recovered, with costs of suit, in civil actions, in the name of the territory of Montana, before any court having competent jurisdiction. One half of all fines so collected shall be paid into the county treasury of the county in which the offense was committed, for the benefit of the common schools of such county, and one half shall be paid to the person or persons making complaint of the commission of such offense. All such fines and Fines under act, how disposed of. No stay of execution; offender may be imprisoned.

costs shall be collected with stay of execution, and such defendant or defendants may, by order of the court, be confined in the county jail until such fines and costs are paid.

Grand jury to inquire into violations of this act.

Duty of district court to call attention of grand jury to this act.

Repealing clause.

Sec. 14. That it shall be the duty of the grand jury to diligently seek out and investigate all infractions of any provision or provisions of this act (except such cases and infractions as may have been already tried before some court having competent jurisdiction) and upon due proof of the infraction of any of the said provisions they shall proceed to indict such party or parties according to law, and it is hereby made the duty of the court to call the attention of the grand jury to the provisions of this act. And the district court shall have concurrent jurisdiction with the probate court of all offenses committed under the provisions of this act.

Sec. 15. That any act to provide against the killing of game and catching of fish, approved May 2d, 1878, be, and the same is hereby repealed.

Sec. 16. That this act shall take effect and be in force from and after its passage.

Approved February 5, 1876.

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#### INSANE.

AN ACT in relation to the management of insane persons in the territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Insane person may be removed from asylum in certain cases at expense of the territory.

Sec. 1. That hereafter whenever the friends or relatives of any inmate of the Montana insane asylum shall apply for assistance or permission to remove any patient in said asylum from thence to his or her friends or relatives in any state or territory, the governor of this territory is hereby authorized and empowered to have such insane person conveyed

to his or her relatives or friends, at the expense of the territory of Montana, if he shall deem such action conducive to the interests of this territory and the welfare of the insane person.

Sec. 2. That the territorial auditor be, and he is hereby, authorized and instructed to draw warrants on the territorial treasury in favor of the governor of this territory for such amounts and at such times as may be required for the purpose mentioned in the first section of this act.

Auditor to draw warrant to pay expenses of removal.

Sec. 3. All acts and parts of acts conflicting with the provisions of this act, be, and the same are hereby, repealed.

Acts repealed.

Sec. 4. This act to take effect and be in force from and after its passage.

Approved February 8, 1876.

#### INSANE—GUARDIANS.

AN ACT to provide for the appointment of guardians of persons insane.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. That the probate courts in the several counties of this territory shall have jurisdiction to appoint guardian for the person and state of persons adjudged insane or *non compos mentis*, and all of the provisions of chapter 28 of the codified statutes of Montana, approved January 12, 1872, relating to the subject of guardian and ward, so far as the same are applicable, shall apply to, and be in force in cases of guardianship contemplated in this act.

Probate courts may appoint guardians for insane and non compos persons.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## INTOXICATING LIQUORS.

AN ACT to prohibit the traffic in intoxicating liquors on general election days.

*Be it Enacted by the Legislative Assembly of the Territory of Montana.*

Unlawful to sell or give away intoxicating liquors on general election day.

Sec. 1. That hereafter it shall be unlawful for any person, either as principal, agent, or otherwise, on any general election day to sell, barter, give or furnish, or cause to be furnished to any person or persons whomsoever, any spirituous or malt liquors, wine or cider, or any intoxicating liquors or intoxicating drinks of any kind or character.

Penalty for violation of section 1.

Sec. 2. That each and every person violating any of the provisions of this act, shall, for each offense, upon conviction thereof, be punished by a fine not less than ten dollars, nor more than two hundred and fifty dollars.

Act not to include sales of liquors for mechanical or medical purposes.

Sec. 3. The provisions of this act shall not be construed to include druggists or other persons who shall in good faith sell or dispose of the articles hereinbefore mentioned for medicinal or mechanical purposes only.

Sec. 4. This shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## LIVE STOCK.

AN ACT to repeal an act entitled "An Act concerning the management of live stock, and the better to protect the interests of stock-growers in the territory of Montana," approved February 13, 1874.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That an act entitled "An Act concerning the management of live stock and the better to protect the interests of the stock-growers of the territory of Montana," approved February 13, 1874, be, and the same is hereby, repealed. Repeals act concerning management of live stock, approved Feb. 13, 1874.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved January 21, 1876.

## LIVE STOCK.

AN Act concerning the management of live stock, and to protect the interests of stock-growers in the territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. The county commissioners of the several counties of this territory may, at their first regular meeting after the passage of this act, divide their respective counties into districts of not less than three and not more than twenty districts. Said commissioners shall have due regard to the natural boundaries, and take into consideration the convenience of the resident stock owners thereof. Division of counties into stock districts.

Sec. 2. The resident stock owners may meet on the last Saturday in May of each year, at some convenient place in the several districts, and proceed to elect three resident stock owners, who shall Election of district stock board.

constitute a stock board. The person receiving the highest number of all votes cast shall preside at the meetings of the said board. The said board shall, on the same day, elect a suitable person to act as clerk to the said stock board.

Round-ups in  
the month of  
June. Duty of  
stock board.

Sec. 3. It shall be the duty of the several stock boards in all the organized stock districts throughout the territory to proceed, in and during the month of June in each year, to round up all the stock in their district, dairy cows, work oxen, and cattle under the direct care of a herder excepted: *Provided*, That when two districts join they shall not round up at one and the same time. The stock-board shall designate the most suitable and convenient points in the district where stock shall be rounded up, and shall take charge of all the stray cattle, horses or mules found in their respective districts, and safely keep the same in a suitable inclosure, provided with feed and water sufficient for all the estrays therein: *Provided, further*, That when any stock board shall have notice of the ownership of any brand or brands of cattle that are or may be in their district, such stock shall not be taken in custody as estrays.

What shall be  
deemed  
estrays.

Sec. 4. All animals may be declared estrays by the stock boards of the several counties, except those that have a duly recorded brand in the general recorder's office in the territory, and those whose owners are known to said stock board; also except sucking colts and calves following their mothers.

Description of  
all estrays to be  
made and kept.

Sec. 5. It shall be the duty of the stock board, immediately after they shall have finished rounding up in their district, to assist the clerk in such district to write out an accurate description of all marks and brands on all the estrays in their custody, and shall also describe as accurately as possible all stray horses and mules not branded: *Provided*, The stock board may declare as estrays all cattle in

the round-up, in their district, either branded or otherwise, that are unclaimed at said round-up and whose owners are not known.

Sec. 6. It shall be the duty of the clerk to attend <sup>Duty of clerk of board.</sup> in person all the round-ups in his district, and shall assist the board in making out an accurate description of all cattle, horses and mules which have been declared estrays by the stock-board, and shall record the marks and brands found on them in a suitable book kept for that purpose, and the same to be at all times subject to the inspection of the public. It shall be the duty of the said clerk to examine carefully all recorded brands and marks, and should he find any recorded brands or marks to correspond with the brands or marks on any animal or animals recorded by him in the district record book of marks and brands, it shall be the duty of the said clerk, without delay, to give notice by letter to the owner of such recorded brand or marks. The said notice shall state the number and description of such stock, and for such notice the clerk shall receive the sum of one dollar from the person receiving such notice or owning such stock. It shall further be the duty of said clerk to give notice to the clerks of adjoining districts, by letter, describing marks, brands, etc., on all cattle, horses and mules. <sup>Adjoining districts notified of estrays.</sup> And when horses or mules are not branded, then to give as accurate description as possible of each animal that has been declared and held as estrays by the stock board of his district. Said clerk shall not be entitled to pay for the same, but may charge and receive one dollar for each certified copy of all brands and marks and descriptions.

Sec. 7. All stock that has been declared stray, <sup>Estrays, how kept and disposed of.</sup> and recorded as such, shall be kept in a suitable inclosure, as provided for in section 3 of this act; and for and in consideration of the safe-keeping, and



good care of all such estray stock, the stock board, or a suitable person appointed by them as their agent, shall receive the sum of two dollars per head. *Provided*, That calves and sucking colts are not counted, and not subject to a charge as other stock. The said sum of two dollars shall be paid by parties who establish a legal right to any of said estrays. The said sum, together with the amount due the clerk of the district, as provided for in section 6 of this act, shall be paid before delivery of said stock; and in case that the said charges are not paid within thirty days from the date of establishing ownership to said stock, the same shall be sold to the highest bidder for cash, and the residue, if any, shall be paid to the order of the legal owner of said stock. The president of the stock-board shall post or cause to be posted, at least ten days previous to date of sale, in not less than three public places in his district, written or printed bills of this form, to-wit:

Notice is hereby given, that the stock board of \_\_\_\_\_ district will sell, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, to the highest bidder for cash, the following described stock: (Here describe the stock to be sold.) Sale to commence at 12 o'clock M. of said day.

Records of sales  
of estrays.

It shall also be the duty of the president of the stock board to send by mail or otherwise, three days prior to date of sale, at least three copies of the foregoing notice to each of the adjoining districts. The proceeds of such sale shall be applied by the stock board: First, in payment for keeping said stock; second, in payment for all necessary provisions used by persons attending and assisting in the district round-up, as provided for in section 5 of this act, and the residue shall be paid by the said board into the school funds of the round-up district.

proceeds of  
sales of estrays.

Penalty for  
driving stock  
off range.

Sec. 8. Any person or persons who shall drive any cattle, horses, or mules farther from their natural range than the nearest corral, provided they can

have the use of such corral, shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace in the territory of Montana, shall be fined in any sum not exceeding one hundred dollars, to be collected as other fines are, and may also, at the discretion of said justice of the peace, be imprisoned in the county jail not exceeding one hundred days. All fines collected under the provisions of this act shall be paid into the school fund of the county in which said stock belongs.

Sec. 9. All acts and parts of acts in conflict with Acts repealed. this act are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

#### MEDICAL PROFESSION.

AN ACT to protect the citizens of the territory of Montana from empiricism and elevate the standing of the medical profession.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. That it shall be unlawful for any person within the limits of said territory, who has not attended two full courses of instruction and graduated at some school of medicine, either of the United States or some foreign country, or who cannot produce a certificate of qualification from some state or county medical society, and is not a person of good moral character, to practice medicine in any of its departments for reward or compensation, or attempt to practice medicine, or prescribe medicine or medicines for reward or compensation, for any sick person within the said territory of Montana: *Provided*, that in all cases when any person has been continuously engaged in the practice of medicine for a

Unlawful for non-graduated physicians to practice.

Exception made of physician who has practiced a term of years.

period of ten or more years, he shall be considered to have complied with the provisions of this act. And that where persons have been in continuous practice of medicine for five years or more they shall be allowed two years in which to comply with such provisions.

Penalty for violation of sec. 1 of this act.

Sec. 2. Any person living in the territory of Montana, or any person coming into said territory, who shall practice medicine in any of its departments, or perform or attempt to perform any surgical operation upon any person within the limits of said territory, in violation of section one of this act shall, upon conviction thereof, be fined not less than fifty nor more than one hundred dollars, and for each subsequent violation of this act, shall, in addition to the above fine, be imprisoned in the county jail of the county in which said offense shall have been committed, for the term of thirty days, and in no case wherein this act shall have been violated shall any person so violating receive any compensation for services rendered: *Provided*, that nothing herein contained shall in any way be construed to apply to any person practicing dentistry.

Dentists excepted from operations of act.

When act takes effect.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 3, 1876.

#### MINOR HEIRS.

AN ACT for the relief of minor heirs, in certain cases.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Minors may sue by attorney or next friend, and without prepayment of costs in certain cases.

Sec. 1. That any minor heir or heirs, either resident or non-resident of this territory, may commence and prosecute any suit or suits against any executor or administrator, and sureties upon the bond of such executor or administrator, by attor-

ney or *next friend*, and without the pre-payment of costs, or security therefor; but such minor shall not be relieved from liability to pay such costs, and the same shall be a lien upon any judgment on property he may recover in such action, and it is hereby made the duty of the officers of the courts to issue all writs and serve the same without demanding or receiving their fees in advance.

Sec. 2. That to entitle any such minor heir so to sue, it shall appear by the affidavit of his or her attorney or *next friend*, that such heir has a good cause of action and is unable to pay the costs in money or to procure security therefor. Affidavit when minor sues under this act.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed. Conflicting act repealed.

Sec. 4. This act shall take effect and be in force from and after its passage. When act takes effect.

Approved February 11, 1876.

#### NOTARIES PUBLIC.

##### AN ACT concerning notaries public.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Sec. 1. The governor shall nominate, and by and with the consent of the legislative council, may appoint one or more persons as notaries public for the territory of Montana, for the term of three years, unless sooner removed by the governor. Appointed by governor with consent of the legislative council.

Sec. 2. Each notary is invested with the power, and shall perform the duties, which pertain to that office by the custom and law of merchants. Powers vested in notaries.

Sec. 3. Every notary public is required to keep a true record of all notices given or sent by him, with the time and manner in which the same were given or sent and the names of all the parties to Notary to keep record of his doings.

whom the same were given or sent, with a copy of the instrument in relation to which the notice is served, and of the notice itself.

Credit due the records and acts of notaries.

Sec. 4. Such records, and copies of them, authenticated by the hand and seal of the notary, his protests, and all his official acts as notary, and his seal, shall receive such credit and faith as they are entitled to by the law and custom of merchants.

Of the notarial seal.

Sec. 5. Each notary public is required to have a seal, on which are to be engraved the words "notarial seal," and "Montana," with his sir-name at length, and at least the initials of his Christian name.

Power to administer oaths and take acknowledgments.

Sec. 6. Notaries public are empowered to administer oaths, and to take acknowledgments and proof of deeds, required or permitted by the law of this territory, to be recorded or acknowledged.

Duty of notary resigning or removing from territory.

Sec. 7. It shall be the duty of every notary public, on his resignation or removal from office, and in case of his death, of his legal representative, to forthwith deposit the record, named in section three of this act, in the office of the clerk of the district court of the county in which he was resident, and on failure to do so, the person so offending shall be liable in damages to any person injured thereby.

Removal from territory taken as resignation.

Sec. 8. If a notary removes his residence from the territory, such removal shall be taken as his resignation.

Duty of clerk of district court, when notaries' records are deposited in his office.

Sec. 9. It is the duty of each clerk aforesaid, to receive and safely keep all such records and papers of the notary in the case above named, and to give attested copies of them under the seal of his court, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same affect as if certified by the notary.

Bond of notary.

Sec. 10. Every applicant for the commission of notary public shall give bond to the territory of Montana in the penal sum of one thousand dollars,

with two good and sufficient sureties, to be approved by the clerk of the county in which said applicant resides, conditioned for the true and faithful performance of the duties of his office, and upon the filing of such bond in the office of the governor of the territory of Montana, the said governor may issue to said applicant a commission as notary public, for which commission a fee of one dollar shall be paid into the territorial treasury.

Commission of notary.

Sec. 11. Any notary public exercising the duties of his office after the expiration of his commission, or when otherwise disqualified, or appending his official signature to documents when the parties have not appeared before him, shall be guilty of a misdemeanor, and be subject to a fine of one hundred dollars for each offense; to be recovered before any court having competent jurisdiction; and shall also be removed from office by the governor.

Penalty for notary exercising duties of office before his qualification or after his commission expires.

Sec. 12. That in case of a demand of payment of any promissory note, bill of exchange, or other commercial paper, by a notary public, and a refusal by the maker, drawer, or acceptor, as the case may be, the notary making said demand may inform the indorser, or any party to be charged, if in the same town or township, by notice deposited in the nearest post office to the party to be charged, on the day of demand, and no other notice shall be necessary to charge said party.

Of the notice by the notary, of non-payment of commercial paper.

Sec. 13. Every notary public whose commission is unexpired at the date of the passage of this act, shall be empowered to act as notary for the entire territory of Montana, as fully as though he had been commissioned under this act.

Notary may act for the entire territory.

Sec. 14. It shall be sufficient for any duly qualified notary public to certify an oath or affidavit, to be used in this territory, in any of the courts, or in any manner whatever, to append his signature to the jurat, and add thereto the words notary public; and

When official signature of notary sufficient without an impress of seal.

such subscription shall be sufficient without the impression of his seal, or other or further addition.

Protest of the  
notary *prima*  
*facie* evidence.

Sec. 15. The instrument of protest of any notary public appointed and qualified under the laws of this territory, or the laws of any other state or territory in the United States, accompanying any bill of exchange or promissory note which has been protested by such notary for non-acceptance or non-payment, shall be received in all the courts of this territory as *prima facie* evidence of the facts therein certified, but any party may contradict by other evidence any certificate.

Power to com-  
pel attendance  
of witnesses in  
taking deposi-  
tions.

Sec. 16. In taking depositions he shall have the same power to compel the attendance of witnesses for refusing to testify, which may be vested by law in justices of the peace, and all sheriffs and constables are required to serve and return all processes issued by such notaries, in taking depositions.

Act repealed.

Sec. 17. That chapter forty-seven of the codified statutes, and all acts and parts of acts in conflict with this act, are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its passage.

Approved February 8, 1876.

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PRINTING.

AN ACT concerning printing.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

A triumvirate  
established to  
control all pub-  
lic printing.

Sec. 1. That the governor, president of the council, and speaker of the house of representatives, or a majority of them, are hereby authorized and directed, immediately after the passage of this act, to contract with such person or persons as they may deem proper in the interest of the territory, for all printing of whatever nature, for the use of the

legislative assembly, the auditor's and treasurer's offices of the territory, and the superintendent of public instruction, payment for the printing of which is not provided for by the United States government; the said contract to be made in writing and signed by the contracting parties: *Provided*, That no printing shall be contracted for, under the provisions of this act, unless the same is expressly authorized by law.

Sec. 2. That said contract shall be made and continued in force for the period of two years from the date of its execution. Term of contract.

Sec. 3. That the party contracting to do such printing shall print all bills or other documents ordered by either house of the legislative assembly to be printed, the printing of which is not provided for by the laws of the United States, in the order in which they shall be numbered and delivered to him, and shall return them in like manner, unless otherwise specially ordered. No printing contracted for paid by the United States.

Sec. 4. That all bills, reports and other documents which may be specially ordered printed by either house of the legislative assembly, shall be printed and returned to the house which shall have ordered them within three days after the delivery of the copy of the same to the party contracting to do the printing under the provisions of this law, unless, on motion, a longer time be given. Return of printing done for the legislature.

Sec. 5. That all officers of the several departments of the territory who by existing or future laws, may be required to make reports to the governor or legislative assembly at any session thereof, payment for the printing of which is not provided for by the laws of the United States, shall cause the same to be printed by such party contracting to do the printing as aforesaid, for the use of the legislative assembly, and shall present the same to that body within the first week of each session. Printing reports of officers.



Printing of  
laws ordered by  
the triumvirate.

Sec. 6. That each person contracting to do said printing, shall publish in a newspaper, to be designated in the contract aforesaid, within sixty days after the adjournment of each legislative assembly, such laws and resolutions as the governor, president of the council, and speaker of the house of representatives may designate and direct to be published, and it is hereby made the duty of the secretary of the territory to deliver to such person so contracting to do such printing within twenty days after the adjournment *sine die* of both houses of the legislative assembly, certified copies of such laws as the said governor, president of the council, and speaker of the house may so designate to be published.

Propose to fine  
the secretary if  
he refuse to  
clerk for the  
triumvirate.

Sec. 7. That in case the said secretary shall fail to perform the duties prescribed in the preceding section, he shall be deemed guilty of a misdemeanor, and shall pay a fine of fifty dollars for each and every day he shall have failed to perform the duties hereinbefore described; and upon complaint of any citizen of the territory before any court of competent jurisdiction, it is hereby made the duty of the district attorney of the district in which said offense may be committed, to enforce the provisions of this act, and collect the fine herein imposed in the same manner as other fines are enforced; and when any fines are collected under the provisions of this act, the same shall be paid into the school fund of the county in which said fine shall have been collected.

Subscription to  
the official  
journal.

Sec. 8. That the said party contracting to do the printing as aforesaid, shall deliver to the auditor of the territory copies of the journal or newspaper containing any of the laws and resolutions of the legislative assembly which shall have been printed as directed by the said governor, president of the council, and speaker of the house of representatives, immediately after the same shall have been published therein; and immediately thereafter the said auditor

shall cause copies of the said designated newspaper containing the laws and resolutions as aforesaid, to be sent to the judges, clerks of courts and all territorial, district, county and township officers; and it shall be their duty to preserve all copies of said newspaper so received carefully in their respective offices; that not exceeding one hundred copies of each journal containing such laws shall be paid for at the rates herein prescribed.

Sec. 9. That said person or persons contracting to do the printing as aforesaid, shall receive ten dollars for every hundred copies of the newspaper containing the published laws and resolutions as aforesaid, and so delivered to the auditor of the territory, as directed by the preceding section, in addition to the remuneration hereinafter provided. Each copy of the newspaper so furnished shall contain not less than three printed columns of the laws and resolutions as aforesaid.

Sec. 10. That all printing for the territory, or for any department of the territorial government, performed by the party contracting to do the printing as aforesaid, shall be executed on the following terms: For the printing of bills and other matter for the use of and ordered by the legislative assembly, and reports printed in pamphlet form, the rates paid by the United States government, under the laws thereof, and under the rules prescribed by the treasury department of the United States.

For printing the laws and resolutions of the legislative assembly designated as aforesaid, in the newspaper as aforesaid, seventy-five cents for every folio of one hundred words.

The following named blanks shall be printed by the party contracting as aforesaid at the following rates:

Blank licenses with stubs, bound, eight dollars per thousand copies.

Auditor to distribute the journal.

Pay per hundred for the paper containing laws.

Rates of printing for the territory.

Tax receipts with stubs, bound, seven dollars per thousand copies.

Blanks for statistics, nine dollars per thousand copies.

For publishing all notices and legal advertisements pertaining to the several departments of the territorial government: For every folio of one hundred words two dollars shall be paid for the first insertion thereof, and fifty cents per folio of one hundred words for each subsequent insertion required by law to be made.

Party contracting to render his account and get his pay.

Sec. 11. That said party contracting to do the territorial printing as aforesaid shall render once in each month to the territorial auditor an itemized account, under oath, of all the printing and advertising done for the territory, or either house of the legislative assembly, or for any officers or department of the territorial government. And the said auditor and the governor shall examine the same, and if they find it to be correct and in accordance with the provisions of this act, the auditor shall draw his warrant on the territorial treasurer for the payment of the same.

The triumvirate to contract for all printing for the counties.

Sec. 12. That it is also made the duty of the said governor, president of the council, and speaker of the house of representatives, in like manner to contract with such person or persons as they may deem proper, in the interest of the several counties in the territory, to do and perform all the printing for which said counties may be chargeable, including legal advertisements, blanks and official publications, at the following rates:

For every folio of one hundred words, two dollars shall be paid for the first insertion thereof, and fifty cents per folio of one hundred words for each subsequent insertion required by law to be made.

For rule and figure work, two dollars and fifty cents per folio of one hundred words shall be paid

for the first insertion, and one dollar per folio of one hundred words for each subsequent insertion required by law to be made.

That the printed blanks, required by law to be printed for the several counties, shall be furnished at the following rates:

Notices to tax payers, seven dollars and fifty cents per thousand copies.

Assessors blanks, thirty dollars per thousand copies.

Special poor tax receipts with stubs, bound, twenty dollars per thousand copies.

Road tax receipts with stubs, bound, twenty dollars per thousand copies.

County warrants with stubs, bound, thirty dollars per thousand copies.

Sec. 13. That the said governor, president of the council, and speaker of the house of representatives shall select and contract with a person or persons resident in and publishing a newspaper in each of the counties to do the printing in said county of which he is a resident; or in case no paper is published in any county, or no publisher in any county will contract under the terms and provisions of this act to do the printing of said county, then the governor, president of the council, and speaker of the house of representatives, or a majority of them, shall contract with the proprietor of a newspaper having a reasonably large circulation in said county, to do all the printing of every description, for which said county may be chargeable, at the rates recited in this act, which shall be paid for in warrants upon the contingent fund of said county or counties, and all legal advertisements of whatever character required by law to be published shall be printed and paid for at the rates provided for in section twelve of this act.

Contract with resident for county printing.

Affidavit of  
printer as to le-  
gal advertise-  
ments.

Sec. 14. It shall be the duty of the party contracting to do the printing of any county, upon the payment of the printer's fees, in case of any legal advertisement, to file in the clerk's office of the court having jurisdiction his affidavit, with a copy of said advertisement ordered by said court to be published, appended, together with a receipt of the printer's fees, paid by the party at whose instance or for whose benefit such advertisement shall have been made, to be collected as other costs; which affidavit shall state the date of the papers in which said advertisement appeared, and the number of times the same was inserted, and be filed and recorded by the clerk as the legal evidence of the publication of the same, and no other evidence of such publication shall be required or allowed.

Monopoly for  
the paper se-  
lected by the  
triumvirate.

Sec. 15. That the contract to do the printing for each of the said counties in the territory aforesaid shall be for the same period prescribed by the second section of this act. Each person so contracted with shall publish in a newspaper designated by the governor, president of the council, and speaker of the house of representatives all the legal and judicial advertisements of said county, or required to be done in said county, of whatever character; and after such contract as aforesaid and notice thereof to the county commissioners, probate judge, recorder, clerks of courts, and sheriff of said county, every publication or advertisement in any other paper than the one so designated shall, during the term of such contract, be null and void for any legal purpose.

Party having  
county print-  
ing, to render  
an account to  
commissioners.

Sec. 16. That any party who shall have contracted to do the printing in any county in this territory, under the provisions of this act, shall, every three months, make out and present to the board of county commissioners of such county, an itemized account under oath, of all the printing done in each quarter which is lawfully chargeable against such

county. The board of county commissioners shall examine the same, and if they find said account correct, and in accordance with the provisions of this act and the contract made thereunder, they shall allow the same and draw their warrant in favor of said contracting party upon the contingent fund of such county.

Sec. 17. That such person contracting to do the territorial printing shall make and file in the office of the territorial auditor a good and sufficient bond running to the people of the territory of Montana, with two or more securities, to be approved by said auditor, which said bond shall be in the sum of five thousand dollars, and conditioned for the faithful performance of his said contract and the execution of all printing so to be done by him upon good material and in a good and workmanlike manner; and each of said persons receiving contracts to do printing in any of the several counties of this territory, shall in like manner make, execute and file with the county clerk of such county, a good and sufficient bond in the sum of two thousand dollars, with two or more sureties, to be approved by said clerk, with like conditions as in the case of the person contracting to do the territorial printing.

Parties having contract to file bonds.

Sec. 18. The term folio in this act shall mean one hundred words, counting each figure as one word. When there are over fifty and under one hundred words, they shall be counted as one folio, but a less number than fifty words shall not be counted as one folio, except when the whole statute, notice, advertisement or order contain less than fifty words.

Term "folio", defined.

Sec. 19. That if any newspaper that has been designated under the provisions of this act, in which territorial or county printing is to be done, shall be destroyed, suspended, or otherwise fail to fulfil any contract made for printing in pursuance of the

When other journal designated.

provisions of this act, then, in that case, it shall be the duty of the governor, the president of the council, and the speaker of the house of representatives, or a majority of them, to at once contract with some other publisher for such public printing.

All other printing provided for.

Sec. 20. All other blanks or printing that may be necessary for the territory or any of the several counties of said territory, under existing or any future laws, and not herein provided for, shall be furnished and paid for at the same rates as herein provided for similar blanks, or printing.

Acts repealed.

Sec. 21. That all acts, or parts of acts, in conflict with the provisions of this act, be, and the same are hereby, repealed.

Sec. 22. This act shall take effect and be in force from and after its passage.

Approved January 21, 1876.

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#### PRIVATE SEALS.

AN ACT to abolish private seals.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Private seals on conveyances not required.

Sec. 1. All conveyances and instruments hereafter executed, which by the common law or the statutes of this territory are required to be executed under seal, shall be as effectual without such seal to all intents and purposes whatsoever, as if the same had a seal attached thereto; and the same shall be interpreted as if the same were sealed, but this act shall not apply to municipal or other corporations which by law are required to attest their action under seal.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 8d, 1876.

QUARTZ CLAIMS.

AN ACT in relation to quartz claims.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. Any person or persons who shall hereafter discover any mining claim upon any vein or lode bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, shall, within twenty days thereafter, make and file for record in the office of the recorder of the county in which said discovery is made, a declaratory statement thereof, in writing, on oath, before some person authorized by law to administer oaths, describing such claim in the manner provided by the laws of the United States.

Discoverer of quartz vein, to file declaratory statement, with recorder of the county.

Sec. 2. That in order to entitle any person or persons to record in the county recorder's office of the proper county, any lead, lode, or ledge, there shall first be discovered on said lode, lead, or ledge, a vein or crevice of quartz, or ore with at least one well defined wall.

What necessary to enable same to be admitted to record.

Sec. 3. Claims on any lead, lode, or ledge, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, hereafter discovered, shall consist of not more than fifteen hundred linear feet along the lead, lode, or ledge, and not more than three hundred feet, and not less than twenty-five feet on each side from the center of said lead, lode, or ledge, for working purposes. *Provided*, that the provisions of this act shall not be so construed as to include claims recorded prior to the passage of this act.

Width of quartz lead, lode or ledge.

Not to apply to claims heretofore recorded.

Sec. 4. All lode claims heretofore discovered and recorded pursuant to the law, and the possessory title to which shall have been preserved according to law, shall entitle the owner or owners thereof to surface ground along the course of the vein three hundred feet on each side from the center of said vein : *Provided*, that such width shall not be permit-

Width of claims heretofore discovered and recorded.



Provided shall  
not affect vest-  
ed rights.

ted to interfere with any vested or possessory rights of any person or persons, corporation or corporations, which have intervened and have been preserved to the time of the taking effect of this act, but parties desiring to avail themselves hereof shall so signify by a record which shall show that they so elect, or if they so desire, they may limit the surface ground on each side of the center of the vein to any width not less than twenty-five feet.

Punishment for  
removal of  
stake or monu-  
ment from min-  
ing claims.

Sec. 5. Any person who shall remove any stake or monument placed on any mining claim, or who shall obliterate, deface or destroy any notice placed thereon, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Acts repealed.

Sec. 6. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 7. This act to take affect and be in force from and after its passage.

Approved February 11th, 1876.

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#### RAILROAD—NORTH AND SOUTH.

AN ACT to enable the people of the territory of Montana to aid in the construction of a railroad.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That for the purpose of aiding in the construction of a railroad to run from Franklin, in the territory of Idaho, to and into the territory of Montana by way of the mouth of the Big Hole river to White Tail Deer Creek, the sum of one million one hundred and fifty thousand dollars is hereby contributed by the territory of Montana, to be paid in the coupon bonds of said territory, in the

manner and on the terms provided in this act: *Provided*, that none of said bonds shall be executed by the territory, or delivered to any corporation, person or persons, for any purpose whatever, except upon the terms and in the manner provided in this act.

Sec. 2. Such railroad shall be built from the said town of Franklin, along and over the nearest and most practical route by the way of the mouth of the Big Hole river to the mouth of White Tail Deer creek, in the said territory of Montana, and shall be built of good and substantial material, and of a gauge not less than three feet in width, and not more than four feet eight and one-half inches in width. Such railroad shall be finished so that a locomotive and a train of cars can pass over the same from said town of Franklin to the terminus aforesaid within two years from the time that any contract shall be entered into and executed by any company, corporation, or association, under and in accordance with the provisions of this act.

Sec. 3. The bonds that may be issued under the provisions of this act, shall be coupon bonds of the territory of Montana, payable at the city of New York, in the state of New York, twenty years from the date of their issue, and redeemable at any time after ten years from their date, at the pleasure of said territory. Said bonds shall bear interest at the rate of seven per centum per annum, shall be dated on the day of issuance and delivery thereof, and shall draw interest from the date thereof. There shall be attached to each bond a coupon for each installment of interest thereon, and the interest shall be due and payable on the first of January of each year at said city of New York. Said bonds shall be signed by the treasurer and auditor of said Montana territory, and shall be countersigned by the secretary of said territory, and when thus issued shall be deliv-

ered by the treasurer of said territory to the person or persons, company, or corporation, or association of persons contracting to construct said railroad, in accordance with the provisions of this act, or to his, its, or their order.

Sec. 4. The bonds herein provided for to be issued by the territory of Montana, shall be procured by the auditor of said territory, and he shall have the same engraved at the lowest possible cost, which shall be paid out of the general fund of said territory, by warrant drawn by said auditor upon the territorial treasury. Said bonds shall be of the denomination of one thousand dollars.

Sec. 5. The railroad herein provided for shall be constructed by the corporation or association of individuals undertaking the same, in two sections, as follows: The first section to extend from the town of Franklin, aforesaid, and terminate on the line of said road at the present southern boundary line of Montana territory. The second section of said road shall commence at the northern terminus of the first section of said road as herein designated, and shall extend to the terminus of said road at the mouth of the White Tail Deer creek aforesaid, and shall be known as section No. 2.

Sec. 6. The corporation or association of individuals who shall accept the terms of this act, and undertake the construction of said railroad under the provisions hereof, shall not be entitled to receive any of the bonds of said territory herein provided for until they shall have constructed and placed in good running order, with full equipment of engines and rolling stock, section number one of said road. And when the said corporation or association of individuals, undertaking the construction of said line of road, shall have completed said section number one and equipped the same with sufficient engines and rolling stock, and shall desire to receive a por-

tion of the aid hereby guaranteed, they shall make application for the same to the governor of the territory in writing, who, upon receiving such written application, shall at once designate three commissioners, who shall be citizens of the territory of Montana, disinterested, impartial men, whose duty it shall be to go, at the expense of said railroad corporation or association of individuals, and examine and measure that portion of said line of railroad which may be completed, and make report in writing, under oath, of the result of their examination; and if they shall find on such examination that said road, as constructed, complies with the requirements of this act, they shall so state in their report to the governor.

Sec. 7. Upon receiving the report of said commissioners, made to the governor under oath, that the said corporation or association of individuals have complied with the provisions of this act, and have completed section number one of said road, and equipped the same as required by this act, the governor shall immediately thereafter make his order on the territorial auditor for one-half of the bonds by this act authorized to be issued, and shall deliver the same to the agent or representative of said railroad corporation or association of individuals, which order shall be accompanied by a copy of the report of said commissioners, and which order and copy of report shall be delivered to the auditor, who shall preserve the same in the files of his office. The order of the governor upon the auditor shall direct him to execute and deliver to the treasurer of the territory the amount of the bonds herein provided for. The bonds so delivered by said auditor to said treasurer of the territory shall, after thirty days notice, to be published by said treasurer in two or more newspapers published in this territory, be by the latter officer delivered over to

the said corporation or its authorized agent, the said territorial treasurer taking duplicate receipts therefor, one of which shall be preserved by him and the other shall be delivered to the auditor, who shall preserve the same in the files of his office.

Sec. 8. And thereafter, when the said corporation or association of individuals shall have completed the second section of said road, they may apply to the governor for the remaining half of the aid hereby given in bonds as herein provided, and such application shall be made in the manner provided in the preceding section, and commissioners shall be appointed and first make a report as is above provided. Their duties shall be the same and their report made in the same manner, and as provided for in the preceding section of this act; and that thereupon there shall be issued and delivered to the said corporation, in the same manner as heretofore provided, bonds as herein provided, equal in amount to one-half of the aid by this act given.

Sec. 9. The county commissioners of the several counties, after having received notice from the secretary of the territory of the passage of this act, as hereinafter provided, shall, and it is hereby made the duty of said county commissioners, on the third day of April, A. D. 1876, to cause to be submitted to the qualified electors of their respective counties the propositions herein contained for their approval or rejection; and if a majority of the electors of the territory, at such elections, shall by their votes approve of this act, such fact shall be entered at large upon the journals of their respective counties.

Sec. 10. The county commissioners of the several counties shall give notice of the election herein provided for by publication in one or more newspapers published within such county at least twenty days before the election; or, if no paper be published therein, the same shall be published in one

or more newspapers published in the territory most likely to give general notice.

Sec. 11. At the election herein provided for, the ballots or votes shall contain the words, "north and south railroad aid, yes;" or "north and south railroad, no." and the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and the liability of officers thereof, and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges of such election shall truly certify and forward the result of such election, together with the poll-books and ballots so cast, to the board of county commissioners to the county seat of said county, within five days after the same shall have been counted and certified; and the said county commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election, to the secretary of the territory; and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act, he or they shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit and pay a fine not exceeding \$10,000, and be imprisoned in the county jail not less than six nor more than ten months.

Sec. 12. The votes that are cast upon the proposition herein contained, after the same shall have been abstracted by the county commissioners of the several counties, and such abstracts shall have been forwarded to the secretary as aforesaid, shall be canvassed in the same manner that the vote for delegate to congress is canvassed under the existing laws.

Sec. 13. If a majority of the votes cast upon the question hereby submitted, shall approve of this act, it shall be the duty of the secretary of the territory to announce such fact through one or more news-

papers published in the territory, and thenceforward this act shall be a contract of binding force upon the territory of Montana, and also upon the corporation or association of individuals that may accept the same, as herein provided, for the fulfillment of which contract, in every particular, on its part, the good faith and credit of the people of Montana territory is pledged.

Sec. 14. The county commissioners of the several counties shall, from time to time, levy a special tax, as may be apportioned by the auditor, in the same manner as other taxes are now levied, sufficient in amount to pay the annual interest that may from time to time accrue upon the bonds so issued, and also to provide for the final payment of said bonds.

Sec. 15. That the following persons and their associates, to-wit: Royal Bassett, J. Richardson, Sidney Dillon, or some of them and their associates, for the purposes herein named, having first incorporated themselves under the laws of Montana territory, shall have thirty days after the passage of this act shall have been announced by the secretary of the territory, within which to determine their acceptance of the terms of this act; their acceptance of which shall be in writing, and shall be filed by the proper officer of said corporation in the office of the secretary of the territory before the expiration of the said thirty days, and in case the said corporation shall fail to file their written acceptance of this contract with the secretary as aforesaid, within thirty days after the passage of this act, this act shall be deemed void and of no effect.

Sec. 16. That in case this act shall be ratified and confirmed by the electors of this territory, in the manner hereinbefore provided, and the said corporation shall file its acceptance of the terms of this act, as above provided, the said corporation shall

construct and fully equip with all the necessary rolling stock, at least one hundred miles of the said road before the first of January, A. D. 1877, and in case of a failure so to do, all rights of such corporation, under the provisions of this act, shall be deemed and held forfeited, and it shall have no further claim upon this territory for any bonds herein provided for.

Sec. 17. That nothing herein contained shall be construed to inhibit the territory from causing *ad valorem* taxes to be levied upon the property of said railroad company within said territory, as taxes are levied upon other property in this territory. But all taxes so levied shall be paid by said railroad corporation into the territorial treasury, and no portion thereof shall belong to any county in said territory, anything in the laws now in force to the contrary notwithstanding.

Sec. 18. The commissioners in this act shall make their report, and take and subscribe their oath thereto, within the limits of this territory, and if the same is false, they shall be deemed guilty of wilful and corrupt perjury, and shall be punished as provided by law therefor.

Sec. 19. That nothing herein contained shall prevent the said corporation from building if they so elect, an independent line of railroad from the town of Ogden in the territory of Utah, or the town of Corinne in the territory of Utah, immediately or ultimately, but the provisions of this act shall only apply to such portions of said road as shall be constructed from a point north of an east and west line, running through the said town of Franklin.

Sec. 20. That the legislative assembly of this territory, and the legislative authority of any state to be formed out of such territory shall, notwithstanding anything herein contained, have authority to regulate the rates of fare and freight the same as



is provided in sections twenty-two and twenty-three of an act entitled "an act to provide for the formation of railroad corporations in the territory of Montana," passed in 1873.

Sec. 21. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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RAILROAD—HELENA AND BENTON.

AN ACT to authorize the counties interested to assist in building a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. The board of county commissioners of any county to be benefited by a railroad from the head of navigation on the Missouri river, at or near Fort Benton, to the city of Helena, are hereby authorized, and upon the petition of fifty qualified voters of any such county, are required to submit to the legal voters of their respective county, the proposition to issue county bonds of such county to aid in the construction of such railroad, not to exceed twenty per cent of the amount of assessed value of taxable property in such county, to be determined by the assessor's returns made the year previous to submitting such proposition : *Provided*, That the whole amount of bonds to be issued to such company or corporation, shall not exceed the sum of seven hundred and fifty thousand dollars, nor shall any greater amount of bonds be issued to any such company than any responsible company or corporation will offer to accept in consideration of constructing such railroad.

Sec. 2. The mode of submitting such question to the voters of such counties shall be as follows :

The county commissioners of any county submitting such proposition, shall cause to be published in a newspaper published in such county, for at least four weeks before such question shall be submitted to vote; or, in case there shall be no newspaper published in such county, they shall cause to be posted in a conspicuous place in each election precinct in such county a notice to the voters of such county, which notice shall set forth the amount of bonds proposed to be issued, the amount of interest thereon, the time when the same shall become payable, the company or corporation to which the same is to be issued, the time when the same are proposed to be delivered to such company or corporation, in what amounts and under what restrictions with reference to the state of advancement or completion of such railroad, and in case a majority of the legal voters of such county shall vote in favor of issuing such bonds, then it shall be the duty of such board of county commissioners to cause to be issued to such railroad company or corporation the amount of county bonds, and in the manner and at the time, or times mentioned in such notice, and in no other manner. *Provided*, that in case any two or more counties shall by such vote authorize the issuing of more bonds in the aggregate than any responsible company or corporation shall offer to accept and build such road for, or in case more than seven hundred and fifty thousand dollars in bonds in the aggregate shall be authorized to be issued, then such county commissioners of each county shall only issue the amount of bonds pro rata as is authorized by section one of this act.

Sec. 3. The question as to the issuing of county bonds as above provided may be submitted as aforesaid to the electors of any such county at any general election to be hereafter held.

Sec. 4. Whenever the board of county commissioners of any such county shall submit to a vote of the electors thereof the question of giving county bonds in aid of any such railroad, there shall be separate ballot boxes and separate poll-books for receiving and entering the votes cast on such question, and such ballots or votes shall contain the words, "railroad subsidy, yes," or, "railroad subsidy, no;" and no person shall vote on said subject except an actual resident of such county, and the same rules, regulations, and liabilities and penalties prescribed by law for the conduct of general elections, and liabilities of officers and electors therefor shall be enforced and observed at such election herein provided for, and the judges of such election shall truly certify and forward the result of such election on such subject, together with the poll-books and ballots so cast, to the board of county commissioners or county clerk at the county seat of such county, in the manner provided by law for providing and delivering the election returns of general elections, and the board of county commissioners shall canvass such returns in the same manner as is or shall be provided by law, concerning canvassing returns of elections of county officers. But no proposition shall be submitted or enforced permitting any bonds to be delivered for any mile of road which shall not be at the time of the delivery of said bonds fully completed and equipped.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## RAILROAD—NORTHERN PACIFIC.

AN ACT to encourage the construction of the Northern Pacific Railroad in the Territory of Montana.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. The treasurer of the territory of Montana is hereby authorized and instructed to issue on the credit of this territory coupon bonds, for the purposes, and under the conditions set forth in this act, to an amount not exceeding three million dollars, redeemable at the pleasure of the territory after ten years, and payable thirty years from their date, and bearing interest at the rate of seven per cent per annum, with coupons, payable semi-annually at some place in the city of New York, to be designated therein: *Provided*, that the bonds mentioned in this section shall not be issued unless this act shall be approved by a majority of the qualified electors of this territory.

Sec. 2. The bonds authorized by this act shall be in such form as the governor of the territory may direct, and shall bear the signatures of the auditor and treasurer of the territory, and shall be sealed and countersigned by the secretary of the territory, and the coupons attached shall be signed by the auditor and treasurer of the territory; and they shall contain the title and date of the passage of the act under which they are issued. Each bond shall be registered in a book to be kept for that purpose, which book shall show the amounts of bonds, their numbers, and the date of the issue. Said bonds shall be of the denominations of one hundred, five hundred, and one thousand dollars; and the faith of the territory of Montana is hereby solemnly pledged for the payment of the interest and redemption of the principal thereof.

Sec. 3. For the purpose of carrying into effect the provisions of this act, the sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, and for that purpose placed at the disposal of the governor.

Sec. 4. Said bonds shall be issued only for the purpose of aiding the construction of the Northern Pacific railroad within the limits of this territory, and in the manner following:

Sec. 5. The governor of the territory, with one person from each organized county in the territory, who shall be elected at the election held for the approval or disapproval of this act, shall compose a board of trustees who shall be known and designated as the territorial trustees of the railroad bonds, three-fourths of whom shall constitute a quorum, who, by a two-thirds vote, are hereby authorized to enter into an agreement with the Northern Pacific railroad company, that the said company shall, within two years from the date of such agreement, construct at its own cost, and put in operation its railroad from Bismark, in the territory of Dakota, to the Yellow Stone river, at or above the mouth of Glendive creek, in Montana territory, and also within three years from the date of such agreement, and at its own cost, lay rails upon and put in operation an extension of the said railroad, westward from the mouth of Glendive creek, into the territory of Montana, three hundred and fifty miles. And for such construction in this territory the said agreement shall provide that the said bonds shall be issued to said railroad company at the rate of nine thousand dollars per mile, for every section of twenty miles of road which said company shall grade, tie and bridge, westward from the above mentioned point, at or above the mouth of Glendive Creek,

within three years from the date of such agreement.

*Provided,* The total amount of bonds issued for this purpose shall not exceed the amount specified in section 1 of this act; and said agreement shall provide that said railroad company shall pay all interest coupons falling due on territorial bonds issued under the provisions of this act; and said agreement shall further provide that said railroad company shall pledge all of its receipts in money or credit for passengers or freight on that portion of its railroad between Bismark and the terminus of said western extension from business originating or terminating in Montana, to protect and pay the said bonds and coupons, and the bonds issued under this act shall provide that the interest and principal shall be paid out of said receipts, first, and said receipts failing, then by the territory of Montana; and said railroad company shall charge the same rates per mile, for freight and passenger travel over said road west from Bismark, as is, or may be charged for the same on said railroad east from said Bismark; and for this purpose the said railroad company shall semi-annually deposit with the Farmer's Loan and Trust Company, in the city of New York, the whole of said earnings, or so much thereof as may be sufficient to redeem the said coupons as they fall due, and such further amount as will, with accumulating interest, constitute a sinking fund sufficient to pay the said bonds at maturity; And if said North Pacific railroad company shall fail to deposit its gross receipts from said portion of the road as aforesaid, then the road-bed and other property of the company within the territory of Montana shall be held and bound for the satisfaction and payment of the bonds and interest thereon proposed to be issued by this act, and the lien thereby created shall take precedence to, and priority over,

any and all other liens or incumbrances theretofore or thereafter created or imposed upon said property, save and except all lawful taxes due or to become due thereon; and these provisions shall also be incorporated in and form one of the conditions of the said bonds proposed to be issued by this act. *Provided*, That the members of said board of territorial trustees of railroad bonds shall have the power to, and may take of the said Northern Pacific railroad company other good and sufficient securities, such as they, the said territorial trustees of the railroad bonds, may deem ample and necessary to take the place of the lien created in this act. *And provided further*, That if the said railroad company shall fail to provide for the payment of the interest on said bonds when the same shall become due and payable as hereinbefore provided, and shall fail to make such provisions for the space of sixty days after demand in writing shall be made by the governor of the territory on behalf of said territory, at the office of said company in the city of New York, (said written demand to be served upon the employe or the persons in charge or possession of such office) then and in that event an action may at once be brought in the name of the territory of Montana to enforce the said lien upon the road-bed and other property hereinbefore mentioned, for the whole amount of said bonds and interest in the same manner as if the said bonds had become due and payable. *And provided further*, That the said railroad company shall, on or before the first day of January, A. D. 1877, build, construct, and put in operation at least fifty miles of said road westward from Bismark in the territory of Dakota, otherwise this act and all agreements thereunder to be null and void and of no effect.

Sec. 6. That whenever the said railroad company shall have completed and put in running opera-

tion twenty miles of said railroad, westwardly from said Glendive creek, and whenever thereafter they shall have in like manner completed an additional section of twenty miles, and as often as such sections are so completed, it shall, through its proper officers, notify the governor of this territory of the completion of so much of said road, and thereupon the governor shall appoint a committee of not less than three reliable persons, who shall not be connected with, or in the employ of said railroad company, and who shall make an inspection of the said road, and if the same is found, upon said inspection, to be so completed in a good, substantial, and workmanlike manner, they shall certify the same to the governor in writing, who shall thereupon, after first giving thirty days notice by publication in some newspaper published at the capital of this territory, direct the auditor and treasurer of the territory to issue to said company ninety per cent of the bonds so earned and due to the said railroad company, by reason of the completion of such section of twenty miles; and the remaining ten per cent of such bonds shall not be issued until the said road is fully completed to the said distance of three hundred and fifty miles westwardly from the mouth of said Glendive creek.

Sec. 7. The members of said board of territorial trustees of the railroad bonds shall assemble upon ten days notice, at such place and time as the governor may designate for the purposes named in this act, and shall receive five dollars for each and every day they may be assembled for such purposes, and ten cents per mile for the distance necessarily traveled in going and returning, which shall be paid out of the moneys provided to carry into effect the provisions of this act. In case of the death or resignation of any member of the board, the remaining members shall fill his place by another person from



the county which has thus lost its representation in said board.

Sec. 8. The said railroad company before entering into any agreement provided for in this act, shall file with the treasurer of Montana territory a certificate from some responsible bank, banking firm, or banking corporation in the city of New York, that the said railroad company have deposited with said bank, banking firm, or banking corporation, one million dollars (\$1,000,000) in current funds, and that the said sum of money is placed to the credit of the said railroad company, and designated as "construction fund" on the books of said bank, banking firm, or banking corporation; after said agreement has been entered into, and before any territorial bonds—notwithstanding the provisions of the previous sections of this act—shall issue to the said railroad company, the said railroad company shall have graded, bridged, tied, and ironed, and placed in running order the whole of their road from the Missouri river, opposite the town of Bismark, in Dakota territory, westward to the Yellowstone river, at or above the mouth of Glendive creek, in Montana territory.

Sec. 9. Before this act shall have any force and effect for the purposes of issuing bonds for railroad purposes, or for the contract contemplated herein, and before said agents on behalf of this territory shall be authorized to contract as aforesaid, this act shall be passed by both houses of the legislative assembly, and shall then be submitted at an election to be held in the various election precincts of the several counties of the territory of Montana, on the 8d day of April, A. D. 1870.

Sec. 10. The county commissioners of the several counties, after having received notice from the governor of the territory of the passage of this act, as hereinafter provided, shall, and it is hereby made

the duty of said commissioners, on the third of April, A. D. 1876, to cause to be submitted to the qualified electors of their respective counties, the propositions herein contained, for their approval or rejection; and if a majority of the electors of the territory at such election shall by their votes approve of this act such fact shall be entered at large upon the journals of their respective counties.

Sec. 11. The county commissioners of the several counties shall give notice of the election herein provided for, by publication in one or more newspapers published within such county at least twenty days before such election; or, if no paper be published therein, the same shall be published in one or more newspapers published in the territory most likely to give general notice.

Sec. 12. At the election herein provided for, the ballots or votes shall contain the words, "For approval of railroad act, No;" or, "For approval of railroad act, Yes." Also, for one member of the territorial board of trustees of railroad bonds in each county. And the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and liability of officers thereof, and electors within this territory, shall be observed and enforced at the election herein provided for; and the judges at such election shall truly certify and forward the result of such election, together with the poll-books and ballots so cast, to the board of county commissioners to the county seat of said county within two days after the same shall have been counted and certified; and the said county commissioners shall, within ten days thereafter, forward a correct abstract of the votes cast on said proposition at such election to the governor of the territory; and upon the failure upon the part of any officer or officers herein named to perform the duties prescribed by this act, he or they shall be deemed

guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine not exceeding four thousand dollars and be imprisoned in the county jail not less than six nor more than ten months.

Sec. 13. The votes that are cast upon the proposition herein contained, after the same shall have been abstracted by the county commissioners of the several counties, and such abstract shall have been forwarded to the governor, as aforesaid, shall be canvassed in the same manner that the vote for delegate to congress is canvassed under the existing laws.

Sec. 14. If a majority of the votes cast upon the question hereby submitted shall approve of this act, it shall be the duty of the governor of the territory to announce such fact through one or more newspapers published in the territory; and thenceforward this act shall be a contract of binding force upon the territory of Montana.

Sec. 15. After the final passage of this act the Northern Pacific railroad company shall have until the first day of July, A. D. 1876, to accept the contract herein provided for, and should said company fail to contract before said date, then this act shall be null and void.

Sec. 16. Immediately after the passage of this act by both houses of the legislature, and said act shall have become a law, the secretary of the territory shall be required to forward to the North Pacific railroad company, in the city of New York, a certified copy of this act, and that said North Pacific railroad company shall, by the 15th day of March, A. D. 1876, notify the governor of this territory of their willingness to accept the propositions contained in this act, provided this act shall be ratified by a majority of the legal voters of the territory of Montana, as provided for in section 9 of this act;

and in case the said railroad company fail to notify the governor of their willingness to accept the provisions of this act, as hereinbefore mentioned, then in that case there shall be no election held as provided for in this act, and this act shall be null and void.

Approved February 11, 1876.

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#### RECORDS.

AN ACT in relation to records.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. The receipt or certificate signed by the register or receiver of any United States land office of the entry or purchase of any tract of land, or of any tract by any land warrant, is *prima facie* evidence in the courts of this territory that the title to the land mentioned or described in said receipt or certificate, is in the person named therein, his heirs or assigns.

Receipt or certificate of land office made evidence.

Sec. 2. Patents issued by the United States to lands in this territory, or duplicates thereof from the records in the general land office, and the register's or receiver's receipt or certificate mentioned in section 1 of this act, may be recorded in the registry of deeds of the county in which the land described in the patent is situated, and the record of such patents, or duplicates, or copies of such record, certified by the register of deeds, shall be evidence in like manner, and to the same extent as the records or transcripts thereof of other conveyances of real estate.

Patents for lands and certificate of register, etc., may be recorded.

Copies of records made evidence.

Approved February 5, 1876.

## ROADS AND HIGHWAYS.

AN ACT to amend an act entitled "An Act in relation to roads and highways," approved February 12, 1874.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Per diem of  
road supervi-  
sors.

Supervisors to  
report moneys  
collected and  
number of days  
work done in  
district.

Acts repealed.

Sec. 1. That section 26 of an act entitled "An Act in relation to roads and highways," approved February 12, 1874, be amended so as to read as follows: "Every supervisor of roads shall receive for each day necessarily employed in the performance of any of the duties required by this act, the sum of three dollars, to be paid out of the general road fund, and it shall be the duty of the supervisor to report to the board of county commissioners at their regular meetings in September in each year, a sworn statement of all moneys collected by them; they shall also present a sworn statement of the number of days of work done in their district for each year, and by whom performed."

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 11th, 1876.

## SCHOOLS.

AN ACT in relation to schools.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

College sites  
may be used  
for common  
school pur-  
poses.

Sec. 1. Whenever under the provisions of the laws of this territory the probate judge of any county, or the mayor of any incorporated town or city, shall have set apart as and for a site for a college or university, any lands or lots in any town

site, the school trustees of any school district in which such site is situate, if they shall so elect, may take possession thereof and occupy the same or any (part) thereof for school purposes, until the same shall be needed for the uses for which it was originally set apart; and, if in the judgment of the superintendent of public instruction of the territory and the county superintendent of common schools and the trustees of the school district in which such site is situate, such site is more appropriate and will be more useful as school grounds for the common schools than as a site for a college or university, they shall so declare in writing, which declaration shall be recorded with the probate judge, and thereafter the said college or university ground shall belong to said school district. And if heretofore any grounds so set apart for a college or university shall have been conveyed to the superintendent of common schools of the county in which such lands are situate for the time being, such conveyance is hereby confirmed and declared valid as a trust to all intents and purposes whatsoever, and such superintendent and his successors in office are hereby declared trustees for the purpose of holding such title, and the said conveyance shall enure to him and his successors in such office, in trust for the uses for which the grounds were originally set apart, but subject to the provisions of this section with reference to the district schools.

Sec. 2. *And be it further enacted*, That whenever heretofore in the construction of any school house the expense of such construction and the grading and fencing the ground and constructing out-houses and furnishing the same, shall have exceeded the estimate therefor and the amount of moneys belonging to such district applicable thereto, and the said district is in debt therefor, such district, by its trustees, may give its note or notes for the deficiency

School districts in debt for school buildings may issue bonds or other evidence of indebtedness.

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Penalty for violation of section 1 of this act.

Sec. 2. Any party or parties not complying with the provisions of the first section of this act, shall, upon the complaint of any citizen of said territory, be deemed guilty of a misdemeanor, and upon conviction of the same before any court of competent jurisdiction, be liable to a fine of not less than twenty-five, nor more than one hundred, dollars, and be adjudged to pay all costs of prosecution, or be imprisoned in the county jail for a term not less than ten nor more than sixty days.

Repealing clause.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

When act to take effect.

Sec. 4. This act to go into and be in effect from and after the first day of March, A. D. 1876.

Approved February 11, 1876.

#### SPECIAL LAWS.

AN ACT to provide for the funding of the debt of Madison county.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

County commissioners authorized to bond the indebtedness of Madison county.

Sec. 1. That the county commissioners of Madison county in this territory, shall have, in addition to the powers already conferred upon them by law, authority to call in at any time when they shall deem it expedient for the interest of said county, all outstanding orders or warrants against the treasury of said county, payable out of the general fund thereof, and are authorized to issue coupon bonds in lieu thereof.

Rate of interest.

Sec. 2. All bonds that may hereafter be issued under the provisions of this act, shall draw interest from the date of issuance thereof, at a rate not exceeding ten per centum per annum, said interest to be due and payable on the first day of January of each year, by the county treasurer of said county

Interest, when and where payable.

out of any moneys in his hands, at the office of said county treasurer, or in the city of New York, as the holder or holders of such bonds may elect.

Sec. 3. The coupon bonds authorized by this act shall be in such form as the said county commissioners may direct, and shall bear the signatures of the said county commissioners and shall be sealed and countersigned by the county clerk. The coupons provided for in this act shall be attached to said bonds, and shall be in such form as the said county commissioners shall direct; and each coupon shall bear the signature of the chairman of said board of county commissioners, countersigned by the county clerk.

Form and execution of bonds.

Form and signatures of coupons.

Sec. 4. Each bond issued under the provisions of this act, shall be registered by the county treasurer of said county, in a book to be kept by him for that purpose, which book shall show the amount of each bond, to whom issued, and the date of the issuance thereof. All warrants that may be called in by the said commissioners, and in lieu of which bonds shall have been issued under the provisions of this act, shall be cancelled by said commissioners in the same manner that county warrants are now cancelled under the general laws of this territory, and the said commissioners shall preserve in a book to be kept for that purpose, a correct description of each warrant so called in, showing the date and amount of each warrant, to whom issued, and the amount of interest due thereon at the date of such cancellation.

Registry of bonds.

All warrants called in to be cancelled and record kept of same.

Sec. 5. All bonds issued under the provisions of this act shall be of the denominations of one hundred dollars and five hundred dollars; and if any amount of county orders on the general fund of said county held by any person for funding shall be of a sum less than one hundred dollars or less than five hundred dollars, the holder of such warrants

Denomination of bonds.



shall make up the amount in money so as to equal the amount of the face of the bond to be issued, and any money paid for that purpose shall be paid to the county treasurer, to the credit of the general fund.

Payment and redemption of bonds.

Sec. 6. All bonds issued under the provisions of this act shall become due and payable ten years from the date of their issue, but shall be redeemable at the pleasure of said county at any time after the expiration of five years from the date of their issue.

Faith of the county pledged to pay principal and interest.

Sec. 7. The faith of the said county of Madison is solemnly pledged for the payment of the interest and redemption of the principal of the bonds authorized to be issued by this act.

Commissioners to have bonds printed.

Sec. 8. For the purpose of carrying into effect the provisions of this act, the said commissioners are hereby authorized to cause to be printed or lithographed at the lowest possible rates, suitable bonds, with coupons attached, and pay for the same out of any moneys in the county treasury of said county not otherwise appropriated.

Holders of warrants to file same for bonding.

Sec. 9. All holders of county warrants on the general fund of said county shall present the same to the board of county commissioners of said county, or file the same with the county clerk thereof, on or before the first day of April, A. D. 1876, for conversion into bonds under the provisions hereof; and in case any holder or holders of such county warrants shall fail to present their warrants to said commissioners or file the same with the clerk of said county as herein provided, on or before the said first day of April, A. D. 1876, it shall be lawful for the said county commissioners, in their discretion, to issue and dispose of in the manner hereinafter provided, a sufficiency of the bonds authorized by this act, to pay off said warrants, and shall out of the proceeds of such sale of bonds cause the said warrants to be redeemed in the manner now provided

under the general laws of the territory for the redemption of county warrants.

Sec. 10. The county commissioners of said county of Madison shall cause to be advertised in a newspaper published in said county, for four weeks, a notice to the effect that they will sell at public auction to the highest bidder, the bonds authorized by section 9 of this act to be sold, stating in such notice the time and place of sale, and the amount and denomination of the bonds to be sold. *Provided,* That no bonds disposed of under the provisions of this act, shall be sold at less than the face thereof.

Advertisement  
and sale of  
bonds.

Sec. 11. At any time after the warrants of said county shall been converted into bonds under the provisions of this act, the county commissioners of said county shall ascertain that there has accumulated in the county treasury of said county, funds not appropriated by law and not needed to meet the current expenses of the county, any sum of money exceeding one hundred dollars, it shall be lawful for the said commissioners to direct the treasurer of said county to purchase the bonds of said county, to the extent of the funds so ascertained to be in the hands of said treasurer, and the said treasurer shall with such accumulated funds purchase bonds of said county, and shall report the same to said commissioners at his next settlement, and the said commissioners shall cancel the same as provided by law.

Purchase and  
cancellation of  
bonds issued  
under this act.

Sec. 12. The treasurer of said county shall pay the interest as it falls due on the bonds herein authorized, on the presentation to him of the proper coupons therefor, and all bonds and coupons which may be paid by the said county treasurer shall be returned by said treasurer to the board of county commissioners at his next settlement with them after such payment, and the said commissioners shall cancel said bonds and coupons in the manner now

Of the payment  
of interest.

provided by law for the cancellation of county warrants.

Penalty for  
forging or coun-  
terfeiting bond  
or coupon.

Sec. 13. That if any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under the provisions of this act, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or shall have or keep in possession, or conceal with the intent to utter, publish, or sell any such forged, counterfeited, or altered bond or coupon with intent to defraud any body corporate or politic, or any person or persons whatever: Every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding ten thousand dollars, and by imprisonment and confinement at hard labor in the penitentiary not exceeding fifteen years, in the discretion of the courts.

Repealing  
clause.

Sec. 14. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 15. This act to take affect and be in force from and after its passage.

Approved February 10, 1876.

#### SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding twelve per cent bonds of Meagher county, Montana territory, and for other purposes.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

County com-  
missioners au-  
thorized to is-  
sue coupon  
bonds on credit  
of the county.

Section 1. That the commissioners of Meagher county, Montana territory, are hereby authorized and empowered to issue on the credit of said county coupon bonds to an amount not exceeding thirty

thousand dollars, or so much thereof as may be necessary to redeem all of the outstanding twelve per cent bonds heretofore issued by said county, together with the interest remaining unpaid thereon, which bonds shall be redeemable at the pleasure of said county, after three years from their date, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding ten per cent per annum.

Sec. 2. The bonds authorized to be issued by this act shall be in such form as the said commissioners may direct, and shall bear the signature of the chairman of the board of county commissioners of said county and the treasurer of said county, and shall be sealed and countersigned by the clerk of said county, and the coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk; and each bond issued shall be registered by the county treasurer, in a book provided for that purpose, and it shall show the number and amount of each bond and to whom issued, and the said bonds shall be sold by said county commissioners, or their lawfully authorized agent or agents, at not less than ninety cents on the dollar of the face thereof, as hereinafter provided.

Form of bonds and coupons. Same, how authenticated.

Bonds to be registered.

Sec. 3. The said county commissioners shall, as soon as practicable after the passage of this act, give notice by advertisement in one weekly newspaper published in this territory, and one daily newspaper published in the city of New York, for a period of not more than four weeks, to the effect that the said county commissioners will sell said bonds (briefly describing the same) and stating the time when such sale will take place.

Advertisement and sale of bonds.

And all moneys arising from the sale of said bonds shall be paid into the treasury of said county to the credit of the sinking fund, and shall immediately be applied to the payment of the interest on the bonds.

Application of proceeds of bonds.

ately thereafter be applied to the payment of the outstanding twelve per cent bonds of said county and the unpaid interest thereon.

Denomination  
of bonds.

Sec. 4. All bonds authorized to be issued by this act shall be of the denominations of one hundred, five hundred, and one thousand dollars, and the faith of the said county of Meagher is hereby pledged for the payment of the interest and the redemption of the principal of said bonds.

Faith of the  
county pledged

Payment of in-  
terest on bonds.

Sec. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it belonged, and all coupons so paid shall be reported to the said commissioners at the first meeting thereafter; but in case the holder or holders of the said bonds shall give the treasurer notice in writing that they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons shall be payable in said city of New York; otherwise the said bonds and coupons shall be payable at the office of said county treasurer.

Moneys set  
aside to pay in-  
terest and cre-  
ate sinking  
fund.

Sec. 6. It shall be the duty of said county commissioners to cause to be set aside forty per cent of all moneys collected by said county, or received into the treasury thereof, for the purpose of paying the interest accruing on the bonds issued and sold under the provisions of this act, and all surplus of said forty per cent received into the treasury, after the payment of the interest aforesaid, shall constitute a sinking fund and be applied to the redemption of the principal of said bonds, as hereinafter provided.

Sec. 7. Whenever, at any time, the sum in said sinking fund shall exceed the sum of five hundred

dollars, and from time to time thereafter, when it may so occur, the said treasurer shall cause a notice to be published in one newspaper of Montana territory that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if at the expiration of said thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation. Such notice shall be sent by mail to such places in New York city, of which the treasurer shall have knowledge by virtue of section 5 of this act, with like effect.

Sec. 8. If at any time before the expiration of three years from the date of said coupon bonds, there shall accumulate in the sinking fund of said county the sum of one hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of the said coupon bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose to purchase or redeem, and the treasurer of said county shall cancel all bonds so purchased or redeemed, and all bonds purchased or redeemed under the provisions of this act by writing across the face of such bond or bonds, in red ink, the word "redeemed," and the date of such redemption.

Sec. 9. If any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under this act, or shall pass, utter, publish or sell, or shall

Redemption of  
bonds.

Purchase of  
bonds issued  
under this act.

Penalty for  
forging or  
counterfeiting  
bonds issued  
under this act.

have or keep in possession, or conceal with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered bond or coupon, with intent to defraud any (body), corporate or politic, or any other person or persons whatsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, and be imprisoned and confined at hard labor in the penitentiary not exceeding fifteen years.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the redemption of the funded debt of Missoula county, and to provide for the payment of interest on the bonds of said county.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Commissioners  
may issue  
bonds and sell  
to highest bidder.

Section 1. That the county commissioners of Missoula county are hereby authorized to issue bonds and sell the same to the highest bidder in accordance with the provisions of this act. Such bonds so authorized to be issued shall bear interest at the rate of ten per cent per annum, payable semi-annually, and may be issued in denominations of one hundred, five hundred, and one thousand dollars, in the discretion of the board of county commissioners, and shall be signed by the chairman of the board of county commissioners and the county treasurer, and shall be sealed and countersigned by the county clerk.

Interest and denomination of  
bonds.

Sale of bonds to  
be advertised.  
May sell at private sale.

Sec. 2. That the county commissioners of the county of Missoula shall cause to be advertised in a newspaper of said county for so long a time as may be necessary, a notice stating at what time any sale

of bonds in accordance with the provisions of this act will take place. But the county commissioners may discontinue any such sale in case they deem it for the interest of the county to do so; and may sell such bonds at private sale.

Sec. 3. That the bonds authorized to be issued by this act shall be redeemable at the pleasure of the county at any time after three years, and payable within ten years from the date of issue. Bonds, when redeemable.

Sec. 4. That the proceeds of the sale of said bonds shall be paid into the sinking fund, and shall be applied to the payment of the interest on the bonds of said county as the same may become due and payable, and to the redemption of the bonds of said county as the same may become due and payable. Application of proceeds of bonds.

Sec. 5. That the county commissioners of Missoula county may allow interest, payable out of the sinking fund, on such bonds as are now past due and unpaid at a rate not to exceed fifteen per cent per annum, such rate to be fixed by said board of county commissioners. Interest may be paid out of sinking fund.

Sec. 6. That all acts, and parts of acts, in conflict with the provisions of this act, be, and the same are hereby, repealed. Acts repealed.

Sec. 7. This act to take effect and be in force from and after its passage. When act to take effect.

Approved January 24, 1876.



## SPECIAL LAWS.

AN ACT to provide for the payment of the indebtedness of Missoula county.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Treasurer not to pay warrants except as provided by this act.

Section 1. From and after the passage of this act it shall not be lawful for the Treasurer of Missoula county to pay any warrant drawn on the treasury of said county prior to the passage of this act, except in the manner as hereinafter provided.

County commissioners to create redemption fund.

Sec. 2. The board of county commissioners of said county are here authorized and directed, from and after the passage of this act, to create in the county treasury of said county a fund to be known as the "Redemption Fund" of said county. As soon after the passage of this act as is possible they shall cause to be transferred into said "Redemption Fund" not less than fifty per cent of all moneys in the general fund at the time of the taking effect of this act, and that hereafter it shall be the duty of the county treasurer of said county to pay into said redemption fund fifty per cent of all county revenue due to and payable into the general fund; and the county treasurer of said county is hereby expressly forbidden from paying out any portion of said fifty per cent of said revenue from said treasury until the said orders of transference, to be made by said board of county commissioners hereinbefore provided for, is duly certified to such treasurer. The moneys placed in the redemption fund, created by this act, shall be disbursed as hereinafter provided.

Per cent of general fund transferred to the redemption fund.

Duty of the treasurer when the sum of three hundred dollars has accumulated in the redemption fund.

Sec. 3. Whenever, at any time, there shall be paid into said redemption fund the sum of three hundred dollars or more, it shall be the duty of the county treasurer of said county to give fifteen days' notice by publication in some newspaper published

in the county, if there be one, if none, then by posting written notices in three or more of the most public places in said county, setting forth that sealed proposals, directed to him, will be received for the surrender of county warrants issued prior to the passage or under the provisions of this act, and that said proposals will be received by him until the next regular meeting of the board of county commissioners thereafter.

Sec. 4. On the first day of such regular meeting and at the session of the first Monday in January of each year of said board of county commissioners, they, together with the auditor and county treasurer, shall attend at the office of the latter, and then and there open all sealed proposals and accept the lowest bids for the surrender of county warrants specified in the preceding section: *Provided*, that no bid for more than par value shall be accepted by them, nor any bid, unless accompanied by the warrant or warrants proposed to be surrendered.

Sec. 5. When any bids are accepted the county auditor and county treasurer shall each take a description of the warrants to be redeemed, specifying the amount to be paid for each warrant, the date, number, and amount thereof, and make a record thereof in their respective offices; and thereupon the board of county commissioners shall, by order, direct the county treasurer to purchase the warrants designated in the accepted bid or bids, and pay for the same out of the redemption funds aforesaid, and all warrants so redeemed shall be canceled by the county treasurer by writing across the face thereof, in red ink, "purchased and redeemed," adding thereto the time when and the amount paid therefor, and signing the same officially. The order of the board of county commissioners aforesaid, together with the record made by the county auditor as herein required, shall be sufficient vouchers for

Sealed proposals for sale of warrants to be opened.

When bids accepted a record to be made of all warrants purchased.

Order of commissioners directing purchase of warrants.

the county treasurer in the settlement of his accounts.

Preference given to smallest amount if bids equal.

The bids specified in this act being equal, preference shall be given to the smallest amounts that shall be deemed the lowest bid which offers the largest amount of warrants at par value for the lowest sum of money. The bids and amounts of warrants being equal, taking into consideration both principal and interest, each shall be accepted *pro rata* as nearly as possible. The county treasurer shall return all unaccepted bids together with the warrants therein contained to the owners on demand.

Return of unaccepted bids.

Separate account kept of redemption fund.

The county treasurer shall keep a separate account under the heading of "Redemption Fund," of all moneys received into said fund, and of all moneys paid out of said fund, and to whom paid.

He shall also, on the register of county warrants kept by him, write opposite each warrant redeemed under the provisions of this act, the word "purchased," and shall state the amount paid therefor.

Purchase of claims due not yet allowed.

Sec. 6. When any claim against said county, which accrued prior to the passage of this act, is allowed by the board of county commissioners of said county after the passage of this act, the same shall be allowed as purchasable out of the redemption fund of said county, and all warrants drawn for the payment of the same shall be drawn upon and purchasable out of said redemption fund in the same manner provided by this act for the purchase of other county warrants with moneys of said county in said redemption fund.

Acts repealed.

Sec. 7. All acts and parts of acts, in conflict with the provisions of this act, are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved January 24, 1876.

## SPECIAL LAWS.

AN ACT authorizing the county commissioners of Missoula county to apply certain funds of said county for a specific purpose.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That the county commissioners of Missoula county are hereby authorized and empowered to apply so much of the bridge and road purchase fund of said county, created by section one (1) of an act to amend an act entitled "An act authorizing the county commissioners of Missoula county to levy a special tax for the purpose of building, buying and repairing bridges," approved January 24th, 1874, not exceeding the sum of three thousand dollars, (\$3,000) towards the construction of a graded wagon road on the east side of the Bitter Root river, between the mouth of Eight-mile creek and Miller's crossing on the lower Bitter Root river.

Sec. 2. *Provided*, that before said board of county commissioners shall appropriate any money authorized by the provisions of this act, they are hereby authorized and instructed to employ the county surveyor of Missoula county to survey, stake out and locate, a working line for said wagon road, between the points mentioned in section one of this act, with a grade not to exceed in any part of said road, one foot to each rod; and said commissioners are hereby instructed to require bonds with good security for a sum not less than four thousand dollars, of the parties or party contracting to do such grading, strictly according to survey; and said commissioners are hereby prohibited from paying any money for any part of said grading, until said wagon road is all completed between the points above mentioned.

County commissioners authorized to use certain moneys to construct wagon road on the east side of the Bitter Root river.

Commissioners to employ surveyor to locate road.

Party contracting to construct road to give bond.

Acts repealed. Sec. 3. All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby, repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 2, 1876.

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SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding twelve per cent bonds of Jefferson county, Montana territory, and for other purposes.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Commissioners may issue bonds to redeem outstanding twelve per cent bonds.

And to supply deficit in treasury.

Form of bonds, and same how authenticated.

Sec. 1. That the commissioners of Jefferson county, Montana territory, are hereby authorized and empowered to issue, on the credit of said county, coupon bonds to an amount not exceeding forty thousand dollars, or so much thereof as may be necessary to redeem all of the outstanding twelve per cent bonds heretofore issued by said county, together with the interest remaining unpaid thereon, and to raise money sufficient to meet the deficit now existing in the treasury of said county by reason of the robbery of said treasury on the night of December 31st, 1875, which bonds shall be redeemable at the pleasure of said county after three years from their date, and shall become due and payable ten years from their date, and bear interest at a rate not exceeding ten per cent per annum.

Sec. 2. The bonds authorized to be issued by this act shall be in such form as the said county commissioners may direct, and shall bear the signature of the chairman of the board of county commissioners of said county, and the treasurer of said county, and shall be sealed and countersigned by

the clerk of said county; and the coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk, and each bond issued shall be registered by the said county treasurer in the book provided for that purpose, and it shall show the number and amount of each bond, and to whom issued; and the said bond shall be sold by said county commissioners, or their lawfully authorized agent or agents, as hereinafter provided.

Sec. 3. The said county commissioners shall, as soon as practicable after the passage of this act, give notice by advertisement in one weekly newspaper published in the territory, and one weekly newspaper published in the city of New York, for the period of four weeks, to the effect that the said county commissioners will sell said bonds, briefly describing the same, at not less than their par value; and all moneys arising from the sale of said bonds shall be paid into the treasury of said county, to the credit of the sinking fund, and shall immediately thereafter be applied to the payment of the outstanding twelve per cent bonds of said county unpaid, and the interest thereon.

Sec. 4. All bonds authorized to be issued by the provisions of this act, shall be of the denomination of one hundred, five hundred, and one thousand dollars each; and the faith of said county of Jefferson is hereby pledged for the payment of the interest and the redemption of the principal of said bonds.

Sec. 5. The treasurer of said county shall pay in lawful money of the United States, at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due, and the number of the bond to which it belonged,

Bonds, how sold.

Sale of bonds to be advertised.

Proceeds of bonds, how disposed of.

Denomination of bonds.

Credit of county pledged.

Payment of interest on bonds.

and all coupons so paid shall be reported to the said commissioners at their first meeting thereafter; but in case the holder or holders of said bonds shall give the said treasurer notice in writing, that they wish the bonds so held by them, and the interest accruing thereon, to be paid at a designated bank in the city of New York, then the said bonds and coupons shall be payable in said city of New York; otherwise the said bonds and coupons shall be payable at the office of said county treasurer.

Moneys set aside to pay interest.

Sec. 6. It shall be the duty of the said county commissioners to cause to be set aside forty per cent of all moneys collected by said county, or received into the treasury thereof, for the purpose of paying the interest accruing on the bonds issued and sold under the provisions of this act; and all surplus of said forty per cent received into the treasury after the payment of the interest aforesaid, shall constitute a sinking fund, and be applied to the redemption of the principal of said bonds, as hereinafter provided.

Redemption of bonds.

Sec. 7. Whenever at any time the sum in said sinking fund shall exceed the sum of five hundred dollars, and from time to time thereafter, when it may so occur, the said treasurer shall cause a notice to be published in one newspaper of Montana territory, that he will, in thirty days from the date of such notice, redeem said amount of bonds which may then be payable, giving the numbers thereof, preference being given to the oldest issue, and if at the expiration of said thirty days the holder or holders shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter, be ready to redeem the same on presentation. Such notice shall be sent by mail to such places in New York city, of which the treasurer shall have knowledge, by virtue

of the provisions of section five of this act, with like effect.

Sec. 8. Bonds to the amount of four thousand dollars, of the amount authorized to be issued in section one of this act, may be set aside and disposed of by said county commissioners as hereinafter provided, for the purpose of raising money to meet the deficit now existing in the treasury of said county, by reason of the robbery of the same on the night of December 31st, 1875.

Sec. 9. That as soon as practicable after the passage of this act, the commissioners of said county are hereby authorized to advertise in one weekly newspaper published in the territory, that they will, on a certain day, to be fixed by them, sell to the highest bidder, the coupon bonds mentioned in section eight of this act: *Provided*, That the said commissioners are authorized to reject any and all bids, and to sell said coupon bonds at private sale if they believe it to be for the best interests of the county.

Sec. 10. The money arising from the sale of said coupon bonds of said county, shall be immediately applied to the payment of the deficit in the treasury of said county, caused by the robbery of the same, on the night of Dec. 31st, 1875.

Sec. 11. If at any time before the expiration of three years from the date of said coupon bonds, there shall accumulate in the sinking fund of said county, the sum of one hundred dollars or more, and as often as the same may occur, the treasurer of said county shall purchase from the holder or holders of the said coupon bonds, at not exceeding their par value, such bonds as he may have money in the sinking fund applicable to such purpose, and the treasurer of said county shall cancel all bonds so purchased or redeemed, and all bonds purchased or redeemed as provided for in this act, by writing across the face of such bond or bonds,



when so purchased or redeemed, the word "redeemed," and the date of such redemption.

Penalty for  
forging or  
counterfeiting  
bond or cou-  
pon.

Sec. 12. If any person or persons shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting, or altering any bond or coupon authorized to be issued under the authority of this act, or shall pass, utter, publish, or sell, or shall have or keep in possession, or conceal with intent to utter, publish, or sell, any such false, forged, counterfeited, or altered bond or coupon, with intent to defraud any body, corporate or politic, or any other person or persons whomsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor in the penitentiary not exceeding fifteen years.

When act to  
take effect.

Sec. 13. This act shall take effect and be in force from and after its passage.

Approved January 31st, 1876.

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#### SPECIAL LAWS.

AN ACT authorizing the county commissioners of Deer Deer Lodge county to pay certain claims.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Sec. 1. That the board of county commissioners of Deer Lodge county are hereby authorized and required to issue to the following named persons, their heirs or assigns, warrants on the general fund of said county, to reimburse said parties for labor done, materials furnished, and moneys expended in the construction of the wagon road leading from

Deer Lodge City to Pioneer City in said county of Deer Lodge, constructed under the supervision of John J. Dounhouer, in such sums as may hereafter be found due them, as provided for under section 2 of this act. The names of said parties are: John J. Dounhouer, Jere. B. Wilcox, Charles Bielenberg, G. Higgins, E. Goodnight, John Blackledge, P. Gilfoy, J. Simmitt, W. Brainard, and A. Gavon.

Sec. 2. Before any warrants shall be issued by the commissioners of said county under the provisions of this act, the parties named herein, or their heirs or assigns, shall make affidavit before some officer authorized by law to administer oaths, that such labor has been performed, or such materials furnished, or such moneys expended, by them, in the construction of said road, and that the same has never been paid. Upon the filing of such affidavits with the clerk of the board of county commissioners, it shall be the duty of the said board of commissioners at their first regular meeting thereafter, to issue to the party or parties making such affidavit, warrants on the general fund of said county, to the amount of their respective claims. *Provided, That this act shall not be construed to authorize said commissioners to issue warrants to any persons not herein named.*

Sec. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved February 11. 1876.

## SPECIAL LAWS.

AN ACT to provide for the redemption of the funded debt of Lewis and Clarke county.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Commissioners may issue coupon bonds to redeem bonds of county due in 1876 and 1877.

Sec. 1. That the commissioners of Lewis and Clarke county are hereby authorized and empowered to issue on the credit of said county, coupon bonds to an amount sufficient to enable them to redeem all outstanding bonds of said county, falling due in the years A. D. 1876 and A. D. 1877, which said bonds shall be redeemable at the pleasure of said county, after three years from their date, and shall become due and payable ten years from their date.

Denomination and rate of interest of bonds to be issued.

Sec. 2. Said bonds shall be of the denomination of fifty, one hundred, five hundred, and one thousand dollars, each, and shall bear interest at a rate

Form and authentication of bonds and coupons.

not exceeding ten per cent per annum. They shall be in such form as the commissioners may direct, and they shall be signed by the chairman of the board of county commissioners and the treasurer of said county; they shall also be sealed and countersigned by the clerk of said county. The coupons attached to the bonds shall be signed by the chairman of said board, the treasurer of the county, and the county clerk. Each bond issued shall be registered by the said county treasurer in a book provided for that purpose, and such registration shall show the number and amount of each bond, and when and to whom issued.

Bonds to be registered.

Sale of bonds to meet deficit.

Sec. 3. When it shall appear to said board of county commissioners at any regular meeting thereof that there is not a sufficient sum in the sinking fund to meet any outstanding bonds maturing and falling due before their next regular session, they shall order a sale of a sufficient number of the bonds

provided for in this act to meet such deficit and no more.

Sec. 4. Such sale of bonds shall be by public auction to the highest bidder for cash, and shall be made at the front door of the court house in said Lewis and Clarke county. Notice of the time and place of such sale shall be given by advertisement in one or more newspapers published in this territory, for a period of not less than four weeks; and if the said commissioners shall deem it expedient and for the best interests of said county, by like advertisement in one newspaper published in New York city, for such length of time as they may direct.

Advertisement  
and sale of  
bonds under  
this act.

Sec. 5. The treasurer of said county shall pay in lawful money of the United States at the expiration of six months from the date of the issue of each bond, the interest due thereon, and semi-annually thereafter, upon presentation at his office of the proper coupon which shall show the amount due and the number of the bond to which it belonged. All coupons so paid shall be reported to the said commissioners at their first meeting thereafter. Should the holder or holders of said bonds to an amount of not less than one thousand dollars give the said treasurer notice in writing that they desire the bonds so held by them and the interest accruing thereon to be paid at a designated national bank in the city of New York, then the said bonds and coupons so held by such person or persons shall be payable at such bank in the city of New York. Otherwise said bonds and coupons shall be payable at the office of said county treasurer.

Payment of in-  
terest on bonds  
issued under  
this act.

Sec. 6. The proceeds of the sale of such bonds shall be paid into the county treasury of said county and shall be applied to the sinking fund.

Proceeds of  
the sale of  
bonds.

Sec. 7. The treasurer shall register in a book to be kept by him for that purpose, all bonds redeemed by him, which book shall show the amount of the

Registry of  
bonds redeem-  
ed.

bond, its number and date, when and to whom issued, and when and from whom redeemed. Said treasurer shall also write across the face of said bond, in red ink, the word "*redeemed*," with the date of such redemption, and shall subscribe his name thereto. He shall also cancel said bonds with a cancelling stamp.

Acts repealed. Sec. 8. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 5, 1876.

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SPECIAL LAWS.

AN ACT to incorporate the town of Helena.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

ARTICLE I.—*Of Boundaries.*

Section 1. That the inhabitants of the city of Helena, in Lewis and Clark county, territory of Montana, be and they are hereby constituted a body politic and corporate, by the name and style of "The city of Helena," and by that name shall have perpetual succession; may sue and be sued, plead and be impleaded in all courts of law and equity, and may have and use a common seal, and alter the same at pleasure.

Sec. 2. That the following described territory shall for the present compose the said town, to-wit:

The southwest quarter of the northeast quarter, and the south half of the northwest quarter, and the southwest quarter, and the west half of the southeast quarter of section No. 30, and the west half of the northeast quarter, and the northwest quarter of the southwest quarter of section No. 31, township No. (10) ten, north range No. (8) three west; and the south half of the northeast quarter of section No. (25) twenty-five, and the northeast quarter and the north half of the southeast

quarter of section No. (86) thirty-six, township No. (10) ten, north range No. (4) four, west from the principal base and meridian, Montana territory.

Sec. 3. Whenever any tract of land adjoining the city of Helena shall be laid off into town lots and duly recorded, as may be required by law, the same may, by the city council, be annexed to and become a part of the city of Helena.

Sec. 4. The inhabitants of said city, by the name and style aforesaid, shall have power to purchase, receive and hold property, both real and personal, or mixed, either in or beyond the city, for burial grounds, and for other purposes, for the use of the inhabitants of said city.

## ARTICLE II.—*Of the City Council.*

Section 1. There shall be a city council, to consist of a mayor and board of aldermen.

Sec. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters for two years, and until others shall be legally qualified.

Sec. 3. No person shall be an alderman unless at the time of his election he shall be a tax-paying householder, and have resided within the limits of the city one year immediately preceding election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

Sec. 4. If any alderman after his election remove from the ward for which he was elected, his office shall be declared vacant. The mayor and aldermen shall serve without any compensation whatever.

Sec. 5. At the first meeting of the city council the aldermen shall be divided by lot into classes. The seats of those of the first class shall be vacated at the expiration of the first year; and of the second class at the expiration of the second year; so that one-half of the board shall be elected annually.

Sec. 6. The city council shall judge of the qualifications and returns of their own members, and shall determine all contested elections under this act.

Sec. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinances.

Sec. 8. The city council shall have power to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

Sec. 9. No alderman shall be appointed to any office under the authority of the city, nor for one year after the termination of his said office; nor shall any person holding an office under the laws of the United States hold any office under this act or the ordinances of said city.

Sec. 10. All vacancies that shall occur in the board of aldermen shall be filled by election.

Sec. 11. The mayor and aldermen, before entering upon the duties of their respective offices, shall each take and subscribe an oath, or make an affirmation, that he will support the constitution of the United States and the Organic Act of this territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

Sec. 12. Whenever there shall be a tie in the election of aldermen, the judges of the election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as shall be prescribed by ordinance.

Sec. 13. There shall be twelve stated meetings of the city council in each year, at such times and places as may be prescribed by the city council.

### ARTICLE III.—*Of the Executive Officer.*

Section 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Sec. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the city for one year next preceding his election, or who shall be under twenty-five

years of age, or who shall not, at the time of his election, be an elector.

Sec. 8. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent from the city for the space of three months, his office shall be vacated.

Sec. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed to determine the same by lot, in such a manner as may be provided by ordinance.

Sec. 5. Whenever any election for mayor shall be contested the city council shall determine the same as may be prescribed by ordinance.

Sec. 6. Whenever any vacancy shall happen in the office of mayor it shall be filled by election.

#### ARTICLE IV.—*Of Elections.*

Section 1. On the third Monday in May, A. D. 1877, an election shall be held in said city for one mayor for the city and two aldermen for each ward, and forever thereafter on the first Monday in May of each year there shall be an election of one mayor for said city and one alderman for each ward.

Sec. 2. All citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who shall have been actual residents of said city six months next preceding said election, shall be entitled to vote for city officers, provided that said voters shall give their votes in the wards in which they shall respectively reside.

#### ARTICLE V.—*Powers of the City Council.*

Section 1. The city council shall have power and authority to levy and collect *ad valorem* taxes for city purposes upon all taxable property, real, mixed, and personal, except as herein excepted, within the limits of the city, not exceeding three-tenths of one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in any



manner that may be prescribed by ordinance, not repugnant to the constitution of the United States, or the Organic Act of this territory.

Sec. 2. The city council shall have power to appoint all officers except the police magistrate, city clerk, city assessor, treasurer, and marshal, who shall be nominated by the mayor, and by him appointed, by and with the advice of the city council, whose term of office shall be one year, subject to removal as herein provided.

Sec. 3. The city council shall have power to require of all officers appointed or elected in pursuance of this act, bonds with penalty and security, for the faithful performance of their respective duties, as may be deemed expedient, and also require of all officers appointed or elected as aforesaid, to take such oaths or make such affirmations as the city council may prescribe for the faithful performance of the duties of their respective offices before entering upon the discharge of the same.

Sec. 4. To appropriate money and funds for the payment of the expenses of the city.

Sec. 5. To make regulations to prevent the introducing of contagious diseases into the city; to make quarantine laws for the purpose, and to enforce the same within five miles of the city.

Sec. 6. To establish hospitals and make regulations for the government of the same.

Sec. 7. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

Sec. 8. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets.

Sec. 9. To open, alter, abolish, widen, extend, establish, grade, pave, or otherwise improve and keep in repair, streets, avenues, lanes, alleys, side-walks, drains and sewers.

Sec. 10. To establish, erect, and keep in repair bridges.

Sec. 11. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

Sec. 12. To establish, support and regulate night watches.

Sec. 13. To provide for lighting the streets, and to erect lamp posts.

Sec. 14. To erect market houses, to establish markets and market places, and to provide for the government and regulation thereof.

Sec. 15. To provide all needful buildings for the use of the city.

Sec. 16. To provide for the enclosing, improving and regulating of all public grounds belonging to the city.

Sec. 17. The said city council shall not be authorized to incur any indebtedness on behalf of said city for any purpose whatever to exceed the sum of five hundred dollars.

Sec. 18. It shall have power to provide for the prevention and extinguishment of fires; to organize and establish fire companies, and to prohibit the erection of wooden buildings in any part of the city.

Sec. 19. To regulate the building and fixing of chimneys, and to fix the flues thereof.

Sec. 20. To regulate the storage of gunpowder, tar, pitch, and resin, and other combustible or dangerous materials.

Sec. 21. To regulate parapets, walls and partition fences, and restrain cattle, hogs, horses, sheep and dogs from running at large.

Sec. 22. To establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, and to fix and enforce payment of fines for non-compliance with any such order.

Sec. 23. To provide for the measuring and inspection of lumber and other building materials, and the measuring of all kinds of mechanical work.

Sec. 24. To provide for the inspection and weighing of stone coal, and measurement of charcoal, firewood, and other fuel to be used within the city.

Sec. 25. To provide for and regulate the inspection of tobacco, and of beef, pork, mutton, game, and fish, flour, meal, and whisky in barrels.

Sec. 26. To regulate the inspection of butter, lard, and all other provisions.

Sec. 27. To regulate the weight and quality of bread to be used in the city.

Sec. 28. To regulate the size of bricks to be used in the city.

Sec. 29. To provide for taking the enumerations of the city.

Sec. 30. To regulate the election of city officers, and to provide for removing from office any person holding an office created by ordinance.

Sec. 31. To fix the compensation of city policemen, who shall be night watchmen: *Provided*, That such compensation shall not exceed the same paid by law in this territory to other officers for like services, and regulate fees of jurors, witnesses and others for services rendered under this act, or any ordinance made in pursuance thereof.

Sec. 32. To regulate the police of the city; to enforce fines, forfeitures and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures, and the enforcement of such penalties, and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city for the general use and benefit of the inhabitants thereof, for the purposes herein provided.

Sec. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act, so that such ordinances incur no indebtedness whatever, and necessitate no levying of taxes exceeding three mills on each dollar, except as is provided in sections five and six of article seven, and be not repugnant to nor inconsistent with the constitution of the United States, nor the Organic Act of this territory.

Sec. 34. The style of the ordinance shall be, "Be it ordained by the city council of the city of Helena."

Sec. 35. All ordinances of the city council shall, within ten days after they shall have been passed, be posted in three public places in said city, and shall not be in force until they have been posted as aforesaid.

Sec. 36. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.—*The Mayor.*

Section 1. The mayor shall preside at all meetings of the city council, and in case of a tie he shall have the casting vote, and in no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

Sec. 2. The mayor or any two aldermen may call a special meeting of the city council, the city clerk, on their requisition, giving reasonable notice in writing thereof, to all members of the city council present in said city.

Sec. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation of duty to be prosecuted and punished. He shall, from time to time, communicate to the aldermen such information and recommend all such measures as in his opinion may tend to the improvement of the finances, the police, the health, security and comfort of the city.

Sec. 4. He is hereby authorized to call on every male citizen of said city over the age of eighteen years to aid in the enforcing of the laws and ordinances, and in case of riots to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or of carrying into effect any law or ordinance, and any person who shall not obey such call shall forfeit to said city a fine not exceeding twenty-five dollars.

Sec. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

Sec. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

Sec. 7. He shall also have such power as may be vested in him by ordinance of the city in and over all places within five miles of the boundaries of the city for the purposes of enforcing the health and quarantine ordinances and regulations thereof.

Sec. 8. In case the mayor shall be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, mal-conduct, or partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not more than five hundred dollars, and the court shall have the power, upon the recommendation of the jury, to add to the judgment of the court that he be removed from office, and forever thereafter be disqualified from holding office under this act or any ordinances of said city.

#### ARTICLE VII.—*Miscellaneous Provisions.*

Section 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one years, to labor on said streets, lanes, avenues and alleys not exceeding one day in each and every year; and every person failing to perform such labor when duly notified by the street commissioners, shall forfeit and pay two dollars for said day so neglected or refused, to be used in improving the public streets.

Sec. 2. The members of the city council and firemen shall, during their term of service as such, be exempt from working out any road or street tax, and shall likewise be exempt from serving in the militia of the territory or on any jury.

Sec. 3. The council shall have power to provide for the punishment of offenders by imprisonment, in all cases where

such offenders shall fail or refuse to pay the fine and forfeiture which may be recovered against them according to the laws of this territory.

Sec. 4. The city council shall have power by ordinance to levy and collect a special tax on the holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of paving, grading or planking sidewalks, and lighting such street, lane, avenue, or alley, provided such tax shall not exceed the actual cost of said sidewalks and lighting respectively, which tax shall be collected in the same manner as other city taxes.

Sec. 5. That no levy or assessment of taxes, not heretofore provided for, shall be made by said city council, except upon a vote of two-thirds of the members thereof, and every levy of taxes for each purpose shall be set forth in a section of an ordinance by itself.

Sec. 6. After the passage of said ordinance by such vote, the same shall be published in two city newspapers for at least one week, together with a notice that the same will be submitted to a vote of the tax-paying householders of said city, on a day and at a place in each of the wards to be named, which election shall be conducted as is provided in other cases, and the ballots shall be for section (—) of an ordinance entitled (giving title), or against section (—) of an ordinance entitled (giving title); and if two-thirds of said voters shall approve the same, the said ordinance shall be in full force, but if not so approved the same shall be void.

Sec. 7. The city council shall provide the detailed method of conducting such election not inconsistent with this act, but nothing in this and the two preceding sections shall affect the passage of ordinances levying taxes for the maintenance of the city police (not exceeding two in number), the payment of night watchmen (not exceeding two in number), paraphernalia for extinguishing fires, cleaning streets, enclosing and protecting cemeteries, maintaining and keeping in repair the property of the fire department, and necessary notices in two of the city newspapers.

Sec. 8. That the city shall not be liable for any costs in any suit prosecuted in its name in its own courts; nor shall any fees taxed exceed in amount the items of fees allowed for similar services to other officers in this territory.

Sec. 9. All fines and forfeitures collected for offences committed, or penalties incurred within the incorporation limits of the city of Helena, shall be paid into the treasury of the said city by the officer collecting the same, with details of sources and on what account paid out.

Sec. 10. The city council shall cause to be published, annually, a full and complete statement of all moneys received and expended, from whatever source received, and what account paid out, with full details.

Sec. 11. All suits, actions and prosecutions instituted, commenced, or brought by the corporation hereby created, shall be prosecuted in the name of the city of Helena.

Sec. 12. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner and with like effect as appeals are taken from and granted from justices of the peace under the laws of this territory.

Sec. 13. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon, and if any such person shall violate the provisions of this section, he shall be deemed guilty of a misdemeanor under the laws of this territory, and shall be prosecuted therefor in the district court, and, on conviction thereof, shall be fined not less than two hundred and fifty dollars nor more than six hundred dollars, or imprisonment three months, or both such fine and imprisonment, and in all contracts involving the expenditure of one hundred dollars or more, the city council shall advertise the same, with specifications, for a period to be prescribed by ordinance, and award the same to the lowest bidder, and they shall so advertise all contracts when convenient so to do.

Sec. 14. Whenever the mayor shall absent himself from the city, or resign, or die, or his office shall otherwise become vacated, the board of aldermen shall immediately proceed to elect one of their number president, who shall be mayor *pro tem* until the office shall be filled by election as herein provided.

Sec. 15. This act is declared to be a public act, and may be read in evidence in all courts of law and equity within this territory without proof.

Sec. 16. The city marshal and the constables within said city of Helena shall be authorized and have power to execute anywhere within the county wherein said city may be located, all processes issued by the police magistrate of said city, or other magistrate within the said city, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

Sec. 17. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or police regulation, made in pursuance thereof, shall be brought in the corporate name of said city.

Sec. 18. In all prosecutions for any violation of any ordinance, by-law, or other regulation, the first process shall be by summons, unless oath or affirmation shall be made for a warrant, as in other cases.

Sec. 19. Upon rendition of judgment the officer rendering such judgment may require the defendant to be confined in jail for a term not exceeding three months; and all persons so committed shall be fined one day for each five dollars of such judgment and costs, unless he shall pay the same.

Sec. 20. The police magistrate shall have jurisdiction in all cases of violation of the city ordinances, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the peace of this territory; and in all courts of this territory said police magistrate shall be held to be and he is hereby constituted a justice of the peace. But no change of venue shall be



allowed from said police magistrate to any other justice of the peace for the hearing or determination of any case, when proceedings shall be commenced against any person or persons for the violation of any city ordinance.

Sec. 21. The duties of all officers mentioned in this act, not herein prescribed, shall be prescribed by ordinance.

Sec. 22. There shall be a police magistrate, city clerk, city assessor, city treasurer and city marshal, appointed as hereinbefore provided. The police magistrate shall be a justice of the peace, and shall have the jurisdiction of a justice of the peace in said county, and he shall have the exclusive jurisdiction of all offences against the ordinances of said city. The city clerk, city assessor, city treasurer and city marshal, shall severally discharge the duties usually pertaining to said offices respectively, and the manner thereof may be prescribed by ordinance.

Sec. 23. This charter shall be submitted to the qualified voters of the city of Helena, on or before the first Monday in April, 1877, at one convenient place therein, by direction of the commissioners appointed in this act. The ballots shall have written or printed thereon "For the Charter," or "Against the Charter," and if a majority of the votes so cast at the election shall be in favor of the charter, then this act to be in full force and effect; but if a majority of the votes so cast shall be against the charter, then this act shall remain suspended, unless thereafter enforced as hereinafter set forth.

Sec. 24. W. K. Roberts, A. M. Holter, Charles Lehman, and John H. Ming be and they are hereby constituted and appointed to act as commissioners and to serve in such capacity until the first board of aldermen of said city shall be elected and duly qualified. Such commissioners, or any three of them, shall, if a majority of the electors of said city vote in favor of this charter, within thirty days from its acceptance as aforesaid, proceed to lay out the territory embraced within the limits of the said city of Helena into four wards, and fix the boundaries of the same; and shall also provide for holding the first election herein appointed in the several wards of said city; shall fix the place for holding said election in each

of said wards; shall appoint the persons to act as judges of election in each of said wards, who shall be sworn, and whose places may be filled in case they do not serve, as provided by law in other elections; said election shall be held and returns thereof be made and certified in all respects as provided by law for the election of members of the legislative assembly. A copy of said returns of said election shall be delivered to the commissioners, who shall canvass the same within three days from the time received, and the persons receiving the highest number of votes for the several officers to be elected under this act, and the aldermen for each ward, shall be declared by said commissioners, or any two of them, duly elected to said offices. If two or more persons shall at said election receive the same number of votes for one of said offices, the commissioners shall determine the same by lot. Thereafter on the third Monday in each May each annual election shall take place.

Sec. 25. In case of rejection of this charter by a majority of the voters at the first election, at any time or times thereafter, when sixty of the qualified voters of said city shall petition said commissioners for a re-submission of said charter to the voters of said city, then it shall be the duty of said commissioners to again submit the adoption or rejection of this charter to a vote of the qualified voters of said city, and if upon said second submission a majority shall adopt this charter, then the same shall be in full force and effect from the time of its adoption. Said re-submissions shall be conducted as in section 24 provided, and whenever said commissioners, or a majority of them present in said city, shall be of the opinion that an incorporation is desired, they may re-submit said charter so many times as in their judgment shall be proper, for adoption or rejection in the manner in said section provided.

Sec. 26. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## SPECIAL LAWS.

AN ACT to provide for the funding of the outstanding indebtedness of Montana territory, and the redemption of the twelve per cent bonds.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. That the territorial treasurer, or such other person as may be designated by law to discharge the duties of said treasurer, shall, on the first day of July, A. D. 1876, issue on the credit of the territory of Montana coupon bonds of the said territory, to an amount not exceeding ninety-one thousand two hundred and fifty dollars, or so much thereof as may be necessary to redeem the outstanding twelve per cent bonds of the territory, unpaid on the said first day of July, A. D. 1876, redeemable at the pleasure of the territory, after two years, and payable seven years from their date, bearing interest at the rate of ten per cent per annum.

Sec. 2. The coupon bonds authorized to be issued by this act, shall be in such form as the governor of the territory may direct, and shall bear the signatures of the territorial auditor and treasurer or such other person as may be designated by law to discharge the duties of such treasurer, and shall be sealed and countersigned by the governor of said territory, and the coupons attached shall be signed by the said auditor and treasurer. Each bond shall be registered by the treasurer in a book to be kept for that purpose, which book shall show the amount of each bond, their numbers, to whom issued, and the date of the issue. The bonds authorized to be issued in section 1 of this act shall be disposed of by the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, as hereinafter provided.

Sec. 3. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall give notice by advertisement in one weekly newspaper published in the territory of Montana, and one daily newspaper published in the city of New York, on the first day of May next, and for the period of four weeks thereafter, to the effect that he will dispose of the said ninety-one

thousand two hundred and fifty dollars of bonds (briefly describing the same, at their par value, on and after the first day of July, A. D. 1876, and the said treasurer is hereby authorized to sell said bonds, or so many thereof as may be necessary for the purposes of this act, at their par value, on and after the first day of July, A. D. 1876: *Provided*, That any bonds sold after said date shall be sold at their par value, and the interest which may have accrued thereon, and the money received therefor, shall be immediately appropriated and applied to the payment of the outstanding twelve per cent bonds, authorized by the act of January 6th, 1872.

Sec. 4. The bonds herein authorized shall be of the denomination of one hundred, five hundred, and one thousand dollars each, and the faith of the territory of Montana is hereby solemnly pledged for the payment of the interest and the redemption of the principal thereof.

Sec. 5. For the purpose of carrying into effect the provisions of this act, the sum of twelve hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, and for that purpose placed at the disposal of the governor.

Sec. 6. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall pay in lawful money of the United States, on the first day of January, A. D. 1877, the interest on each bond issued and sold, as heretofore provided, and semi-annually thereafter, upon presentation at his office of the proper coupon, which shall show the amount due and the number of the bond to which it refers; and the amount of interest so paid shall appear in his annual report, provided for by law. *Provided*, That the principal and interest upon said bonds shall be payable in the city of New York, in case the holder or holders of such bonds and coupons shall give the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, due notice that they wish their bonds and the interest thereon paid at a designated bank in said city of New York, otherwise the same shall be payable at the office of said territorial treasurer, or such other

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person as may be designated by law to discharge the duties of such treasurer.

Sec. 7. The territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall reserve and set aside forty per cent of all moneys received into the territorial treasury for the purpose of meeting the payment of the interest accruing on the bonds issued in pursuance of this act, and heretofore issued in pursuance of the act of January 6th, 1872, and all surplus remaining of said forty per cent after the interest shall have been paid, shall be set aside as a sinking fund for the redemption of the principal, as provided in section 8 of this act.

Sec. 8. Whenever, at any time, the sum in said sinking fund shall exceed the sum of one thousand dollars, and from time to time thereafter, when it may so occur, the territorial treasurer or such other person as may be designated by law to discharge the duties of such treasurer, shall cause a notice to be published in one newspaper in Montana territory that he will, in thirty days from the date of such notice, redeem said amount of such bonds which may then be payable, giving the numbers thereof, preference being given the oldest issue; and if at the expiration of the said thirty days, the holder or holders shall fail or neglect to present the same for payment, interest thereon shall cease, but the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall at all times thereafter be ready to redeem the same on presentation. Such notice shall also be sent by mail to such places in the city of New York, of which the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall have knowledge by virtue of the provisions of section 6 of this act, with like effect. The said territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, shall write in red ink across the face of each bond redeemed under the provisions of this act, the word "redeemed," and shall sign his name officially under the word so written as aforesaid, and shall report the payment of the same to the next session of the legislative assembly thereafter. *Provided, That*

if at any time before July 1st, A. D. 1878, the sum of one hundred dollars, or more, shall accumulate in the fund set aside, under the provisions of this act, for the redemption of bonds, it shall be the duty of the territorial treasurer, or such other person as may be designated by law to discharge the duties of such treasurer, to purchase from the holders of the outstanding bonds issued under the act of January 6th, 1872, at not exceeding their par value, such bonds as he may have funds applicable for such purpose.

Sec. 9. The treasurer shall register in a book to be kept by him for that purpose, all bonds redeemed by him under the provisions of this act, which book shall show the amount of the bond, its number and date, when and to whom issued, and when and from whom redeemed, and shall cancel the bond with a canceling stamp.

Sec. 10. If any person or persons shall falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, forged, counterfeited or altered, or shall wilfully aid or assist in falsely making, forging, counterfeiting or altering any bond or coupon authorized to be issued under the provisions of this act, or shall pass, utter, publish or sell, or shall have in or keep in possession, or conceal with intent to utter, publish or sell any such false, forged, counterfeited or altered bond or coupon, with intent to defraud any body corporate or politic, or any other person or persons whatsoever, every such person so offending shall be deemed guilty of felony, and shall, upon conviction thereof, be punished by a fine not exceeding five thousand dollars, and by imprisonment and confinement at hard labor not exceeding fifteen years, according to the aggravation of the offense.

Sec. 11. This act shall take effect be in force from and after its passage.

Approved February 11, 1876.



## SPECIAL LAWS.

AN ACT to provide for the compensation of James H. Hills for services rendered the territory of Montana, for printing in the *New Northwest*, published at Deer Lodge, Montana territory, advertising for the escape of prisoners during the year A. D. 1874, at the request and direction of the governor of said territory.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. There shall be, and is hereby, appropriated out of the territorial treasury the sum of sixteen dollars, to be paid to James H. Hills, for printing in the *New Northwest*, published at Deer Lodge, Montana territory, in advertising for escaped prisoners.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of sixteen dollars, in favor of James H. Hills, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 9, 1876.

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SPECIAL LAWS.

AN ACT for the relief Henry Sonnefield.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. There is hereby appropriated out of the territorial treasury the sum of fifty-four dollars to compensate Henry Sonnefield for the construction of shelving for the territorial library, and for drayage and freight on books, and one step-ladder furnished said library.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum named in the first section of this act, in favor of Henry Sonnefield, to be paid out of any money in the treasury not otherwise appropriated.

Approved February 11, 1876.

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SPECIAL LAWS.

AN ACT to provide for the compensation of Henry A. D. Acheul for money laid out and expended in searching for escaped convicts from the penitentiary of the territory of Montana, in the year A. D. 1874.

*Be it Enacted by the Legislative Assembly of the Territory of Montana:*

Section 1. There shall be and is hereby appropriated out of the territorial treasury the sum of fifty-four dollars, to be paid to Henry A. D. Acheul, for money laid out and expended in searching for escaped convicts from the territorial penitentiary during the year A. D. 1874.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of fifty-four dollars in favor of Henry A. D. Acheul, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 8, 1876.



## SPECIAL LAWS.

## AN ACT for the relief of Seth Bullock.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. That there shall be and is hereby appropriated out of any money not otherwise appropriated the sum of three hundred dollars (\$300) to Seth Bullock, for services rendered while sheriff of Lewis and Clark county, in the case of The Territory *versus* George Paul Green, of Dawson county, charged with an assault with intent to commit murder, and for boarding said Green in the county jail of Lewis and Clarke county; and the territorial auditor is hereby authorized to draw his warrant on the territorial treasurer therefor.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

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SPECIAL LAWS.

## AN ACT for the relief of John Quirk.

*Be it Enacted by the Legislative Assembly of the territory of Montana :*

Section 1. That the sum of one hundred and fifty dollars is hereby appropriated to pay John Quirk for services rendered, and expenses incurred in attempting to capture and bring to justice the murderers of Francis Warl. And the auditor of the territory is hereby required to draw his warrant on the territorial treasurer for said amount in favor of John Quirk.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved February 11, 1876.

## SPECIAL LAWS.

AN ACT to provide for the compensation of Dr. A. H. Mitchell for medical and surgical services rendered the territory of Montana at the penitentiary of said territory during the months of March and April, A. D. 1874, at the request of F. H. English, warden of the said penitentiary.

*Be it Enacted by the Legislative Assembly of the Territory of Montana :*

Section 1. There shall be, and is hereby, appropriated out of the territorial treasury the sum of one hundred and fifty dollars, to be paid to Dr. A. H. Mitchell, for medical and surgical services rendered at the penitentiary of Montana at the request of F. H. English, warden of the penitentiary, for medical and surgical treatment of prisoners during the month of March, A. D. 1874.

Sec. 2. The territorial auditor is hereby authorized and instructed to draw his warrant on the territorial treasurer for the sum of one hundred and fifty dollars in favor of Dr. A. H. Mitchell, to be paid out of any money in the treasury not otherwise appropriated.

Sec. 3. This act to take effect and be in force from and after its passage.

Approved February 9, 1876.

## RESOLUTIONS.

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**Resolution for the relief of Isaac R. Alden.**

*Resolved by the Council, the House concurring :*

That the sum of one hundred and twenty-seven dollars be, and the same is hereby, appropriated out of any moneys in the treasury not otherwise appropriated, in favor of Isaac R. Alden, for expenses incurred as recorder of marks and brands. The territorial auditor is hereby authorized to draw his warrant upon the territorial treasurer for said amount in favor of the said I. R. Alden.

**Approved February 11, 1876.**

## JOINT MEMORIALS.

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*To the Honorable, the Senate and House of Representatives of the United States :*

Your memorialists, the Council and House of Representatives of the territory of Montana, respectfully represent that by an act of congress approved May 30, 1872, the delegate in congress from this territory is required to be elected on the Tuesday succeeding the first Monday in November, 1876, and biennially thereafter; that heretofore such election in this territory has occurred on the first Monday of August, which has been the time fixed by law for our general annual election.

That with the view to comply with the foregoing enactment of your honorable bodies, and to save the expense of more than one election, your memorialists have at their present session enacted that such election of delegate, and also the election of all other officers required by our laws to be elected, including the members of the two houses of the legislative assembly, shall transpire on the Tuesday succeeding the first Monday in November, A. D. 1876, and biennially thereafter. That in thus providing for biennial elections, instead of annual elections, as has heretofore been provided for under the laws of this territory, your memorialists have been actuated by a desire to save one-half the expense consequent on the holding of annual elections, to the people of the territory. Under the enactment of your honorable bodies providing for biennial sessions, the legislative assembly of this territory has heretofore convened on the first Monday of January of each even numbered year in biennial period; but at the present session your memorialists have enacted a law by which it is provided that hereafter the legislative assembly shall convene at the

seat of government of the territory on the second Monday of January, A. D. 1877, and biennially thereafter, thus choosing the other year of the biennial period for the meeting of the legislative assembly.

This legislation results in a session of the legislative assembly in 1876 and in 1877. Your memorialists were ordered to pass this enactment from considerations of public duty. As the members of the legislative assembly are elected near the close of 1876, and biennially thereafter, it seemed to your memorialists that the people of this territory should be permitted to have the benefit and advantage of the expressions of their opinion, at elections, in public matters, by the assembling of their legislature within a reasonable time after the election at which the members of the legislative assembly were elected. The members elected in November, 1876, under our law, will convene in the January succeeding, being an interval of about sixty days; whereas, if the law were not so changed it would compel an interval of one year and two months before the convening of the legislative assembly, or it would compel another election in 1877, or, in other words, annual elections.

The conditions of our settlements are such as to necessarily make our elections expensive events to our people. It is therefore of great importance to this territory that annual elections be avoided.

Your memorialists are of the opinion that the act providing for biennial elections sought only to fix biennial periods within each of which one session of our legislative assembly might lawfully convene, and that it was, and is, a matter of indifference to your honorable bodies at what time in each of such biennial periods such legislative assembly should convene. Your memorialists are of the further opinion that the action taken by us, providing for a regular session in 1877, is in accordance with the provisions of your legislation providing for biennial sessions, but owing to the phraseology thereof some have entertained doubts whether our action accords with the act of congress; that a matter of such grave moment to this territory should not remain in doubt, and that we might not

seem wanting in any loyal duty, we have deemed it proper to lay this action, with the reason therefor, before your honorable bodies. Your memorialists therefore pray that if it shall seem a matter of doubt to your honorable bodies, whether this action of ours conform to the act of congress or no, that our legislation be confirmed, and that in the proper appropriation act your honorable bodies will provide suitable appropriation to pay the expenses of a legislative assembly in January, 1877, and biennially thereafter. And your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,

*Speaker of the House of Representatives.*

ASA BROWN,

*President of Council.*

—

Joint Memorial in relation to the improvement of the navigable waters of the territory of Montana.

*To the Honorable, the Senate and House of Representatives of the United States, in Congress Assembled:*

Your memorialists, the Council and House of Representatives, composing the legislative assembly of the territory of Montana, most respectfully represent: That the improvement of the channels of the navigable rivers of Montana have not heretofore received that attention from congress that the importance of the subject and the necessities of the people of the territory demand.

We beg leave to bring to the notice of your honorable bodies the fact that during the past year it has been generally demonstrated by the people of Montana that the Yellowstone river is not navigable for the purpose of commerce from its confluence with the Yellowstone river to the mouth of the Big Horn river, a distance of more than one hundred miles. That it is the opinion of your memorialists, based upon an actual and personal examination of the upper part of said Yellowstone river, that the distance of navigation

thereon can, with a small appropriation, be extended to within less than one hundred miles of the city of Bozeman, in the county of Gallatin, thus opening a line of transportation by water from the states to the middle and southern parts of the territory, thereby materially lessening the time of freights in transit, and very materially reducing the cost of carriage; all of which is a matter of vital importance to the people of Montana.

Your memorialists would further represent that the interests of the middle and northern portion of Montana require the improvement of the channel of the Missouri river between Fort Peck and Fort Benton, of said river, to a point as near the junction of the Jefferson and Gallatin rivers as navigation may be found practicable. That on that part of the river between Fort Peck and Fort Benton, except during a short period of high water during each season, navigation is very seriously obstructed at several points, with rocks, boulders, shoals and rapids. That a small appropriation made for the purpose would effectually clear out the channel and render the river between said points navigable during the whole of the boating season.

That in relation to said river above Fort Benton, your memorialists do most respectfully represent and believe practicable, the improvement of the channel from Fort Benton to the falls of the said river, and from the falls to the presumed head of navigation, thus rendering the Missouri river navigable for freight and passenger steamers through the heart of Montana to a point at or near the confluence of the Jefferson and Gallatin rivers, making an increased distance of two hundred and five miles of steamboat navigation on said river.

That the distance from Fort Benton to the falls is twenty-eight miles; the distance of portage or land carriage around the falls is fourteen miles; the distance by river from the falls to the junction of the Jefferson and Gallatin rivers is one hundred and sixty-three miles; that the river from Fort Benton to the last point mentioned, passes through the best and most fertile portion of the territory; also through the richest mineral region on the eastern slope of the Rocky mountains

and within fifteen miles of the city of Helena; that the portage around said falls of all goods and merchandise and re-shipping same, can be accomplished for a sum not exceeding two dollars and fifty cents per ton; that the channel of the river above the falls, the greater portion of the distance to the mouth of the Jefferson river, is deep and the water sluggish, and navigable for upper river steamers in its usual condition and stage of water.

Your memorialists further represent that much work has been done in the locality of said river, upon mining claims; that a large number of mineral lodes have been prospected, which are known to be valuable for the gold, silver, lead and copper they contain, but that they remain at present unworked and undeveloped, because the present facilities of the country for exporting the ores that might be produced, to a suitable market for reduction, are entirely too expensive and inadequate; that ores, minerals and other productions which constitute the main and principal resources of the territory—the transportation of which upon wagons for several hundred miles to make connection with either water or railroad routes to the southern, eastern or western markets, consumes such a length of time and the tariff rates of such freighting being so expensive, the most of such products will not now bear shipping, but would under more favorable circumstances, and would contribute largely to the actual resources of the territory.

That your honorable body may have a reasonable conception of the amount of freight shipped up and down the Missouri river during the boating season, we beg to submit the following table of statistics for the year 1875:

Amount of freight shipped to Fort Benton, present head of navigation on the Missouri river, three thousand and twenty-six tons; amount of freight shipped from Fort Benton, nine hundred tons; amount of freight shipped to Carroll, a point about four hundred miles below Benton, on the Missouri river, twelve hundred tons; amount of freight shipped from Carroll, five hundred tons.

Your memorialists would further represent, that in view of



the contemplated erection of two forts—one on the Big Horn, and one on Powder river—and the fact that the Crow agency is upon the Yellowstone, the saving derived from the transportation of Indian and military supplies will, in one season, repay the government for any appropriations necessary to open up that river to successful navigation. That mines of gold, silver and coal abound in that vast fertile country, and that emigration is seeking it in large numbers; the world-wide wonders of the national park are situated upon the head waters of the Yellowstone, and removing the obstructions of the river will open up a cheap and direct route for tourists and naturalists. Reminding your honorable bodies of the isolated position of this territory and the many disadvantages its people labor under, of the privations they endure, and their unfavorable situation relative to markets for the sale of their products and the procuring of supplies, we earnestly petition your favorable consideration of our necessities, and urge upon you the propriety of making an appropriation to clear out the channels of the parts of the Missouri and Yellowstone rivers your memorialists have herein referred to.

Your memorialists further beg leave to represent, that an expenditure, by the government, of a small amount of means in improving the navigation of said waters, will not only be of great benefit to the people of Montana, placing them in part on an equal footing with other territories of the west, but will also be of great utility to the government. The main rivers of the United States being national thoroughfares, we deem it but just and reasonable to ask your honorable bodies to appropriate a sufficient amount of money to remove the obstructions and make navigable said rivers. Therefore, your memorialists, do humbly ask for the appropriation of ——— dollars, to be used for such purpose, in such manner, as your honorable bodies may deem advisable. And your memorialists will ever pray.

S. W. LANGHORNE,  
*Speaker of the House of Representatives.*

ASA BROWN,  
*President of the Council.*

*To His Excellency—the President of the United States.*

Your memorialists, the legislative council and house of representatives, composing the legislative assembly of the territory of Montana, would respectfully represent that the interests of the territory would be greatly promoted, and its early settlement hastened by the rescission of the order of your Excellency setting aside that portion of the country on the north bank of the Yellowstone and attaching it to the Crow reservation, for the reasons herein set forth.

That the Yellowstone valley, now closed up by this order, is the most direct, natural eastern route to and from Montana. That ever since the closing of the Bozeman and Bridger roads, and the abandonment of Forts Reno and C. F. Smith, our routes to the states east of us have been, for the most part, by way of the circuitous route through the territory of Utah. That during the ensuing summer numerous, and doubtless successful attempts will be made to navigate the Yellowstone river and establish thereby the feasibility of transportation by steamboats on that stream. That the country, thus set aside embraces a portion of the route selected by the Northern Pacific railroad. That that great national enterprise must of necessity push its way westward with all possible rapidity, both by reason of the terms of its charter and the wants of the nation. That the country embraced in the reservation on the north bank of the Yellowstone is peculiarly adapted to agricultural pursuits and stock raising. That numerous settlements already exist there, and many more are desirous of settling there by reason of its peculiar advantages. That the order made at the instance of Indian traders does not reach or have any national influence upon the object intended. That the maintenance of the order will work incalculable injury to the people of this territory, and is utterly valueless to the Indians for the purposes intended.

We, your memorialists, would therefore earnestly pray your Excellency to rescind the order, and your memorialists will ever pray, &c.

S. W. LANGHORNE,  
*Speaker of the House of Representatives.*

ASA BROWN,  
*President of the Council.*

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*To Hon. William W. Belknap, Secretary for the Department of War:*

Your memorialists, the legislative council and house of representatives, comprising the legislative assembly of the territory of Montana, would respectfully submit:—

That they have seen with surprise and regret, in the report of General Terry, a recommendation for the abandonment of the military post at Camp Baker, in the Smith River valley, Meagher county, Montana.

That said move, if executed, would be unwise, unpolitic, and premature, inasmuch as said valley is very sparsely settled, and its inhabitants are constantly menaced by roving bands of Indians. Not only do the Western Indians, the Nez-Perces, Pendi-Oreilles, Flatheads, Spokanes, and others, traverse said valley, on their annual buffalo hunts, but even the Sioux Indian is occasionally seen on its borders; and, while the former will, as a rule, confine their operations to stealing horses and other stock, the latter will, in addition, take all the scalps he can find. Scarcely a month passes by that we are not reminded of our isolated position by the atrocious murders on our borders. Troops are not entirely able to prevent those Indian atrocities, but their presence has a tendency to decrease them.

Therefore, your memorialists, while they have no objection to make to that part of General Terry's report recommending the erection of a military post on the Muscle-Shell river, somewhere near the road leading from Carroll, on the Missouri,

to Helena, and even heartily concur, in that respect, with General Terry, deeming the establishing of a military post, at the place indicated above, not only of great convenience to the people of Montana, but even a duty which the United States government owes to all its citizens, viz., ample protection against Indians, wherever the flag of the stars and stripes waves,—beg leave to ask you to disregard such recommendation of General Terry, as refers to the removal or abandonment of Camp Baker, as a military post, until such time when an increased security of life and property will justify it. Your Honor having traveled, last summer, from Helena to Carroll, via Camp Baker, will be enabled to form a correct opinion as to the just nature of our request from personal observation.

And your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,

*Speaker of the House of Representatives.*

ASA BROWN,

*President of the Council.*

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*To the Honorable, the Senate and House of Representatives of the United States, in Congress assembled :*

Your memorialists, the Legislative Council and House of Representatives, composing the legislative assembly of the territory of Montana, would most respectfully represent to your honorable bodies that, in consequence of certain obstructions in the Columbia river, Montana territory is deprived of the salmon fish.

That, were said obstructions removed, the salmon fish would ascend Clark fork of the Columbia into lake Pendi-Oreille, in the northern part of Idaho territory ; the Pendi-Oreille river into the Flathead lake in Montana ; thence, further ascending, Clark's Fork and its tributaries, the Big Blackfoot, Bitter Root, Hell Gate, Rock Creek, and Deer Lodge rivers, to their head-waters, and many small feeders thereto, thus supplying Montana streams of the aggregate length of over three thousand miles, spreading out over

all that vast portion of Montana lying west of the main range of the Rocky mountains, embracing an area of territory larger than all of the New England states, with this excellent and valuable fish.

Your memorialists would further represent that said salmon fish are very abundant in the river below said obstructions herein referred to. That they ascend the river to said point in large quantities. That, were said obstructions removed, they would ascend into all the waters hereinbefore mentioned, and deposit their spawn. That all the streams mentioned are exceedingly well adapted to fish breeding. That the supply of these Montana streams, with the salmon fish, is very much desired by the people of the territory.

We believe the subject of fish culture one that should receive substantial encouragement from the government of the United States, and deserving special attention in the western territories, embracing within their boundaries the head-waters of the three great rivers, the Missouri, Columbia, and the Colorado.

Your memorialists would most respectfully state that the obstructions referred to are known as the Kettle Falls of the the Columbia, situated a few miles below old Fort Colville, in Washington territory, extending across the river, and about fifteen feet in height. That a small sum of money, wisely expended, under the direction of a skillful engineer, would remove said obstructions sufficiently to enable said fish to pass over them during the spawning season.

Wherefore, your memorialists earnestly pray that an appropriation of fifteen thousand dollars may be made by your honorable bodies, to be used and expended for the purposes above mentioned.

And as in duty bound, your memorialists will ever pray.

S. W. LANGHORNE,

*Speaker of the House of Representatives.*

ASA BROWN,

*President of the Council.*

*To the Honorable members of the Senate and House of Representatives of the United States :*

Your memorialists, the council and house of representatives of the territory of Montana, respectfully represent that by an act of congress approved May 30, 1872, the delegate in congress from this territory is required to be elected on the Tuesday succeeding the first Monday in November, 1876, and biennially thereafter, that heretofore such election in this territory has occurred on the first Monday of August, which has been the time fixed by law for our general annual election. That with the view to comply with the foregoing enactment of your honorable bodies, and to save the expense of more than one election, your memorialists have, at their present session, enacted that such election of delegate, and also the election of all other officers required by our laws to be elected, including the members of the two houses of the legislative assembly shall transpire on the Tuesday succeeding the first Monday in November, A. D. 1876, and biennially thereafter; that in thus providing for biennial elections, instead of annual elections, as has heretofore been provided for, under the laws of this territory, your memorialists have been actuated by a desire to save one-half the expense consequent on the holding of annual elections, to the people of the territory under the enactment of your honorable bodies, providing for biennial sessions; the legislative assembly of this territory has heretofore convened on the first Monday of 'January' of each even numbered year in the biennial period; but at the present session of your memorialists have enacted a law by which it is provided that hereafter the legislative assembly shall convene at the seat of government of the territory on the second Monday of January, A. D. 1877, and biennially thereafter, thus choosing the other year of the biennial period for the meeting of this legislative assembly.

This legislation results in a session of the legislative assembly in 1876, and in 1877. Your memorialists were ordered to pass this enactment from considerations of public duty, as the members of the legislative assembly are elected near the close of 1876, and biennially thereafter, it seemed to your memori-

alists that the people of this territory should be permitted to have the benefit and advantage of the expression of their opinion at elections, on public matters, by the assembling of their legislature within a reasonable time after the election at which the members of the legislative assembly were elected.

The members elected in November, 1876, under our law, will convene in the January succeeding, being an interval of about sixty days; whereas, if the law were not so changed it would compel an interval of one year and two months before the convening of the legislative assembly, or it would compel another election in 1877, or in other words, annual elections. The condition of our settlements are such as to necessarily make our elections expensive events to our people. It is therefore of great importance to this territory that annual elections be avoided.

Your memorialists are of the opinion that the act providing for biennial elections ought only to fix biennial periods, within each of which one session of our legislative assembly might lawfully convene, and that it was and is a matter of indifference to your honorable bodies, at what time in each of such biennial periods such legislative assembly should convene. Your memorialists are of the farther opinion that the action taken by us providing for a regular session in 1877, is in accordance with the provisions of your legislation, providing for biennial sessions, but owing to the phraseology thereof, some have entertained doubts whether our action accords with the act of congress. That a matter of so much grave moment to the people of this territory should not remain in doubt, and that we might not seem wanting in any loyal duty, we have deemed it proper to lay this action with the reason therefor, before your honorable bodies. Your memorialists, therefore pray, that if it shall seem a matter of doubt to your honorable bodies, whether this action of ours conform to the act of congress or no, that our legislation be confirmed and that in the proper appropriation act your honorable bodies will provide the suitable appropriation to pay the expenses of

a legislative assembly in January, 1877, and biennially thereafter; and your memorialists, as in duty bound, will ever pray.

S. W. LANGHORNE,

*Speaker of the House of Representatives.*

ASA BROWN,

*President of the Council.*

---

*To the Honorable, the Senate and House of Representatives, in Congress Assembled :*

Your memorialists, the Council and House of Representatives of the territory of Montana, respectfully represent that under the operations of the mineral law of 1872, entries have been made in the land office at Helena to the amount of eleven thousand seven hundred and ninety-seven acres, and the same paid for. The amount applied for and not yet paid for amounts to nearly six thousand acres, comprising some of the best placer mining ground in the territory. A large proportion of these entries have been made by non-residents, thus the law is made to operate injuriously to the territory by preventing the development of our placer mines and enforce idleness of its most important and productive industry. It is not, however, the purpose of your memorialists to ask to impair the rights of such persons as have made application for mining ground under said law, nor such persons as have had their claims surveyed with intention of making application for the purchase of the same.

Your memorialists earnestly request that the law be repealed, to the end that the interest of actual residents may be more securely guarded. And your memorialists will ever pray.

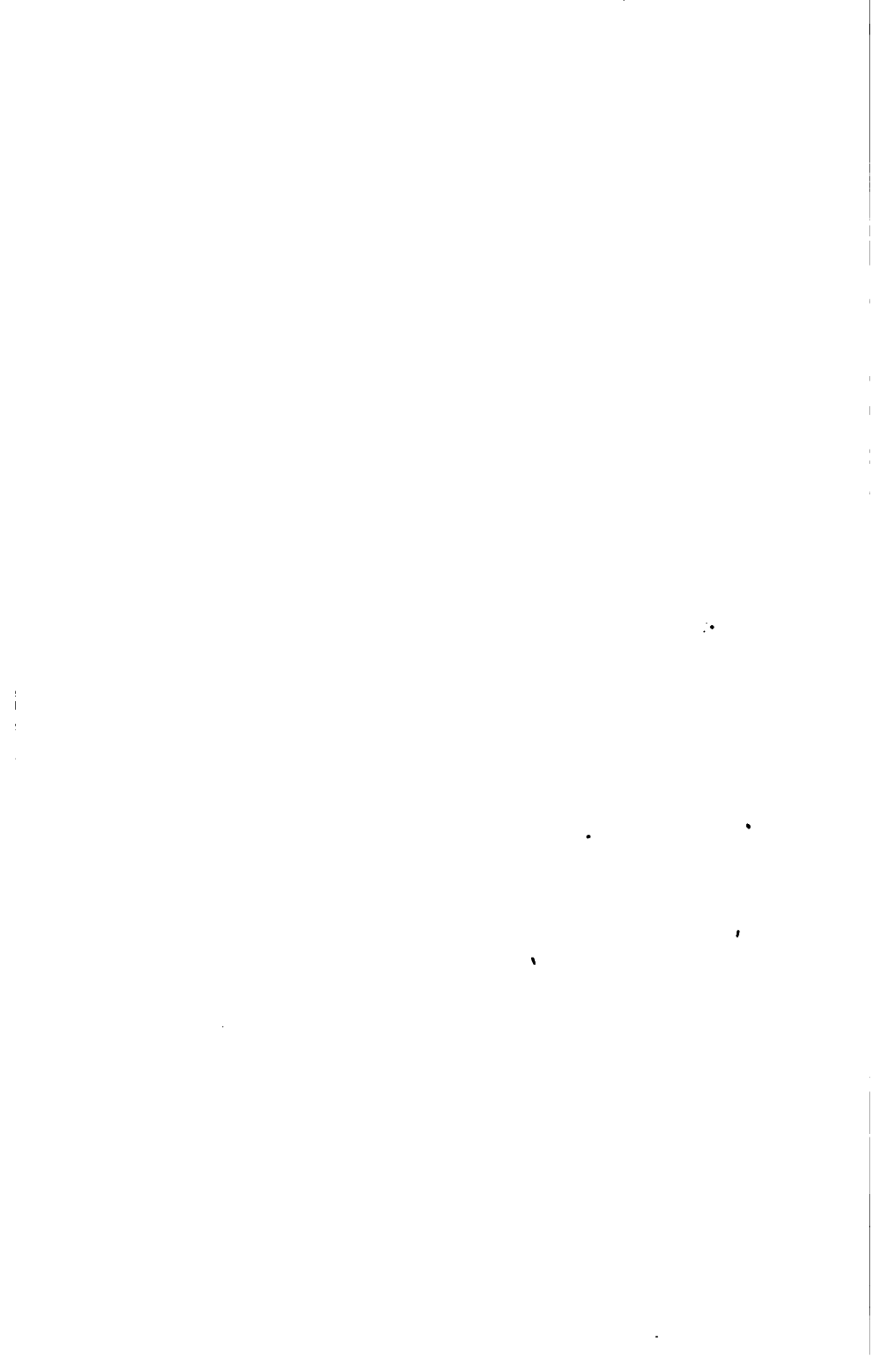
S. W. LANGHORNE,

*Speaker of the House of Representatives.*

ASA BROWN,

*President of the Council.*





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